

MT LEGISLATIVE HISTORY

Chapter 37 1977

Bill (H) 30 S _____

Original bill & hist. ☒ C

H. Committee on Public Health, Welfare & Safety

S. Committee on Public Health, Welfare & Safety

Hearing Date(s) JAN 11 ☒ C

Hearing Date(s) FEB 24 ☒ C

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Date Out JAN 11 ☒ C

FEB 24 ☒ C

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

1 HOUSE BILL NO. 30
 2 INTRODUCED BY BARDANOUVE
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
 5 CLARIFY THE LAWS RELATING TO VOCATIONAL REHABILITATION,
 6 PUBLIC ASSISTANCE, STATE INSTITUTIONS, THE DEVELOPMENTALLY
 7 DISABLED, AND THE MENTALLY ILL; AMENDING SECTIONS 38-110,
 8 38-120, 38-210, 38-506, 38-1202, 38-1205, 38-1206, 38-1208,
 9 38-1222, 38-1302, 41-817, 71-113, 71-207, 71-210, 71-211,
 10 71-212, 71-213, 71-214, 71-216, 71-217, 71-222, 71-226,
 11 71-230, 71-233.1, 71-233.3, 71-302.2, 71-303, 71-305,
 12 71-306, 71-307, 71-308, 71-311, 71-314, 71-501, 71-509,
 13 71-710, 71-901, 71-1401, 71-1516, 71-1903, 71-2304, 71-2404,
 14 71-2405, 80-1405, 80-1410, 80-1413, 80-1603, 80-1912,
 15 80-2412, 80-2701, 80-2702, 80-2717, AND 80-2802, R.C.M.
 16 1947; AND REPEALING SECTIONS 71-101, 71-107, 71-118, AND
 17 71-233.5, R.C.M. 1947."
 18
 19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 20 Section 1. Section 38-110, R.C.M. 1947, is amended to
 21 read as follows:
 22 "38-110. Maintenance of indigent ~~persons~~ patients on
 23 discharge. Prior to the discharge of a patient from a mental
 24 health facility, the professional person in charge of the
 25 facility shall notify the welfare department of the county

1 from which the patient was committed. The county welfare
 2 department shall at once ascertain whether the discharged
 3 patient is in financial need. If the patient is found to be
 4 in financial need, the county welfare department shall
 5 properly care for and maintain the discharged patient under
 6 the laws of this state relating to public ~~welfare~~ assistance
 7 until the patient is able to care for himself, or until
 8 another provision has been made for care of the patient."

9 Section 2. Section 38-120, R.C.M. 1947, is amended to
 10 read as follows:

11 "38-120. Receipt of nonresident ~~insane person who is~~
 12 seriously mentally ill pending return to home state. ~~As~~
 13 ~~insane~~ A person, who is seriously mentally ill and not a
 14 resident of this state, may be received into the state
 15 hospital for a period not to exceed ~~thirty (30)~~ days pending
 16 return to the state of his residence."

17 Section 3. Section 38-210, R.C.M. 1947, is amended to
 18 read as follows:

19 "38-210. ~~Moneys Disposal of moneys of on person who is~~
 20 seriously mentally ill ~~insane person disposal of~~. When a
 21 person is adjudged ~~insane to be seriously mentally ill~~ and
 22 ordered committed to the state hospital, or is adjudged to
 23 be in such a condition of mind that he should be placed in
 24 the state hospital for observation, the money found on him
 25 at the time he is taken into custody must be certified to by

INTRODUCED BILL

1 the judge, and sent with the person to the state hospital.
 2 The money must be delivered to the superintendent of the
 3 state hospital, whose receipt for the money shall be taken
 4 by the officer or other person delivering ~~him~~ the patient to
 5 the hospital, ~~who~~ The officer must file the receipt with
 6 the clerk of the district court of the county in which the
 7 proceedings were held. If the amount exceeds ~~one hundred~~
 8 ~~dollars (\$100)~~, the excess must be applied to the payment of
 9 the expenses of the person while in the hospital. If the
 10 amount is ~~one hundred dollars (\$100)~~ or less, it must be
 11 kept and delivered to the person when discharged or released
 12 from the hospital or applied in payment of funeral expenses
 13 if the person dies while in the hospital. If an amount
 14 remains to the credit of a person paroled, discharged, or
 15 released, or after payment of the funeral expenses of the
 16 person who dies while in the hospital, and the amount
 17 remains unclaimed for ~~one (1)~~ year after the parole,
 18 discharge, release, or death, ~~fifty per cent (50%)~~ of the
 19 amount, but not in any event exceeding ~~fifty dollars (\$50)~~,
 20 shall be withdrawn from the account and placed in the agency
 21 fund in the state treasury, to be expended for indigent
 22 patients at the times and in the manner and for such
 23 purposes as may be prescribed by the superintendent of the
 24 hospital. A balance which remains to the credit of the
 25 person, shall be transmitted to the county treasurer of the

1 county from which the person was sent, and if a sum remains
 2 after paying the costs of hearing, and transportation to the
 3 hospital, the balance shall be paid into the state treasury
 4 to the credit of the general fund."

5 Section 4. Section 38-506, R.C.M. 1947, is amended to
 6 read as follows:

7 "38-506. Support of patient conditionally released.
 8 When a mental health facility conditionally releases a
 9 patient committed to its care, it is not liable for his
 10 support while conditionally released. Liability devolves
 11 upon the legal guardian, parent, or person under whose care
 12 the patient is placed when conditionally released, or upon
 13 any other person legally liable for his support. The public
 14 welfare officials of the county where the patient resides or
 15 is found, are responsible for providing relief and care for
 16 a conditionally released patient who is unable to maintain
 17 himself, or who is unable to secure support from the person
 18 under whose care he was placed on convalescent leave, like
 19 any other person in need of relief and care, under the
 20 public ~~welfare~~ assistance laws."

21 Section 5. Section 38-1202, R.C.M., 1947, is amended to
 22 read as follows:

23 "38-1202. Definitions. As used in this act the
 24 following definitions apply:

25 (1) "Board" means the mental disabilities board of

1 visitors created by this act.

2 (2) "Community-based facilities" or "community-based
3 services" ~~include~~ includes those services and facilities
4 which are available for the evaluation, treatment, and
5 habilitation of the developmentally disabled in a community
6 setting, including but not limited to, outpatient
7 facilities, special education services, group homes, foster
8 homes, ~~day-care~~ day-care facilities, sheltered workshops,
9 and other community-based services and facilities.

10 (3) "Court" means ~~the~~ a district court of the state of
11 Montana.

12 (4) "Developmentally disabled" means suffering from
13 disabilities attributable to mental retardation, cerebral
14 palsy, epilepsy, autism, or any other neurologically
15 handicapping condition closely related to mental retardation
16 and requiring treatment similar to that required by mentally
17 retarded individuals, which condition has continued or can
18 be expected to continue indefinitely and constitutes a
19 substantial handicap of such individuals.

20 (5) "Habilitation" means the process by which a person
21 who is developmentally disabled is assisted to acquire and
22 maintain those life skills which enable him to cope more
23 effectively with the demands of his own person and
24 environment and to raise the level of his physical, mental,
25 and social efficiency. Habilitation includes but is not

1 limited to formal, structured education and treatment.

2 (6) "Next of kin" includes but need not be limited to
3 the spouse, parents, adult children, and adult brothers and
4 sisters of a person.

5 (7) "Professional person" means:

6 (a) a medical doctor, ~~;~~ or

7 (b) a person trained in the field of developmental
8 disabilities and certified by the department of institutions
9 or the department of social and rehabilitation services in
10 accordance with standards of professional licensing boards,
11 federal regulations, and the joint commissions on
12 accreditation of hospitals.

13 (8) "Resident" means a person admitted to a
14 residential facility for a course of evaluation, treatment,
15 or habilitation.

16 (9) "Residential facility" or "facility" means any
17 residential hospital or hospital and school which exists for
18 the purpose of evaluating, treating, and habilitating the
19 developmentally disabled on an inpatient basis, including
20 the Boulder River ~~School~~ school and ~~Hospital~~ hospital and
21 the Eastmont ~~Training Center~~ training center. The term does
22 not include a group home, ~~or~~ foster home, or a halfway
23 house. A correctional facility or a facility for the
24 treatment of the mentally ill shall not be a "residential
25 facility" within the meaning of this act.

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(10) "Respondent" means a person alleged in a petition filed pursuant to this act to be developmentally disabled and in need of developmental ~~disabilities~~ disability services.

(11) "Responsible person" means any person willing and able to assume responsibility for a person who is developmentally disabled or alleged to be developmentally disabled. Whenever, in any proceeding under this act, the court believes that a conflict of interest may exist between a person who is developmentally disabled or alleged to be developmentally disabled and his parents or guardian, or that the parents or guardian are unable to protect the interests of such person, or whenever there is no parent or guardian, the court shall appoint a responsible person to protect the interests of the person who is developmentally disabled or alleged to be developmentally disabled. Only one person shall at any one time be the responsible person within the meaning of this act. In appointing a responsible person, the court shall consider the preference of the respondent or patient. The court may at any time, for good cause shown, change its designation of who is the responsible person.

(12) "Seriously developmentally disabled" means developmentally disabled due to developmental or physical disability or a combination of both rendering a person

unable to function in a community-based setting."

Section 6. Section 38-1205, R.C.M. 1947, is amended to read as follows:

"38-1205. ~~Procedure for reporting developmentally disabled~~ Petition for involuntary treatment. (1) Any person who believes that there is a person who is developmentally disabled and in need of developmental disability services may report the situation to a professional person. If the professional person believes from the facts given to him that the person may be developmentally disabled and in need of developmental disability services, he shall contact the parents or guardian of the person alleged to be developmentally disabled or the person himself. If any of the persons so contacted refuse to cooperate with the professional person and if the professional person believes from all the circumstances of the case that the person may be developmentally disabled and in need of developmental ~~disabilities~~ disability services, he shall request the county attorney to file a petition alleging that there is a person in the county who is developmentally disabled and in need of developmental ~~disabilities~~ disability services.

(2) The petition shall contain ~~the name and address~~ of:

(a) the name and address of the professional person and any other person requesting the petition, and their

1 interest in the case;

2 (b) the name and address of the respondent;

3 (c) the name and address of the parents or guardian of
4 the respondent, and of any other person believed to be
5 legally responsible for the care, support, and maintenance
6 of the respondent;

7 (d) the name and address of the respondent's next of
8 kin, to the extent known;

9 (e) the name and address of any person whom the county
10 attorney believes might be willing and able to be appointed
11 responsible person; and

12 (f) a statement of the rights of the respondent and
13 his parents or guardian which shall be in conspicuous print
14 and identified by a suitable heading.

15 (3) Upon presentation to the court by the county
16 attorney, the court shall immediately consider the petition
17 with or without a hearing to determine if there is probable
18 cause to believe that the respondent is developmentally
19 disabled and in need of evaluation and treatment. If the
20 court finds no such probable cause, it shall dismiss the
21 petition. If the court finds that probable cause does
22 exist, it shall direct a professional person to examine the
23 respondent and to make an inquiry concerning the
24 circumstances of the case. Such examination shall not
25 exceed ~~four (4)~~ hours in length. If probable cause is

1 found, the court may appoint a responsible person other than
2 the respondent's parents or guardian to protect the
3 interests of the respondent. The responsible person shall
4 be notified as soon as possible that a petition has been
5 filed. Notice of the petition and the finding of probable
6 cause shall be mailed or delivered to the respondent and to
7 all other persons named in the petition and to any person
8 who would have been named in the petition had his name,
9 address, and relationship to the respondent been known at
10 the time.

11 (4) When the professional person first contacts the
12 respondent, before he begins any examination, he shall give
13 the respondent a copy of the petition and explain to the
14 respondent the nature of the proceeding and his rights as
15 set forth in the petition. If the respondent is incapable
16 of understanding the explanation and proceeding, the
17 professional person shall give the petition and make the
18 explanation to the parents or guardian of the respondent.
19 Before making any inquiry of the parents or guardian of the
20 respondent, the professional person shall give them a copy
21 of the petition, and explain the nature of the proceeding
22 and their rights as set forth in the petition."

23 Section 7. Section 38-1206, R.C.M. 1947, is amended to
24 read as follows:

25 "~~38-1206. Petition dismissal hearing counsel~~

1 ~~treatment~~ Action on petition. (1) If the professional
 2 person, based on his examination and inquiry, determines
 3 that the respondent is not developmentally disabled or is
 4 not in need of developmental disability services, he shall
 5 report this finding in writing to the court and the petition
 6 shall be dismissed. If the professional person concludes
 7 that the respondent is developmentally disabled and in need
 8 of developmental disability services, he shall report this
 9 conclusion to the court in writing together with his
 10 recommendations for evaluation and treatment. The report
 11 shall include an explanation of the basis on which the
 12 professional person has reached his conclusion and shall
 13 include a description of any tests or evaluation devices he
 14 has employed. If the professional person's recommendation
 15 is for further evaluation and treatment, notice of this
 16 recommendation shall be sent to the respondent, his parents
 17 or guardian, the next of kin, the responsible person
 18 appointed by the court, if any, and any attorney
 19 representing the respondent or his parents or guardian. If
 20 no responsible person has yet been appointed, the court may
 21 appoint one at this time.

22 (2) If the respondent, his parents or guardian, the
 23 responsible person, if any, or counsel for any party
 24 requests a hearing on the recommendation, the court shall
 25 set a time and place for hearing. The hearing shall be

1 before the court without a jury. The rules of civil
 2 procedure shall apply.

3 (3) Prior to any hearing held pursuant to this
 4 section, the court shall appoint counsel to represent the
 5 respondent, if the respondent has not retained independent
 6 counsel. The parents [or guardian] shall be informed of
 7 their right to counsel, and if they are indigent, the court
 8 shall, on their request, appoint counsel for them. In no
 9 case shall may the same attorney represent the respondent
 10 and his parents or guardian.

11 (4) If the hearing is waived or if the court finds,
 12 after hearing, that the respondent is developmentally
 13 disabled and in need of further evaluation and treatment,
 14 the court shall order that the respondent undergo such
 15 evaluation and treatment. Evaluation and treatment ordered
 16 pursuant to this subsection shall may not be for ~~no~~ more
 17 than ~~thirty~~ (30) days. It shall take place in the least
 18 restrictive environment in which the necessary evaluation
 19 and treatment can be accomplished. Evaluation and treatment
 20 in a residential facility shall may be ordered only if the
 21 necessary evaluation and treatment cannot be accomplished
 22 through the use of community-based facilities."

23 Section 8. Section 38-1208, R.C.M. 1947, is amended to
 24 read as follows:

25 "38-1208. Recommendation to residential facility. (1)

1 If as a result of the evaluation and treatment, either
 2 agreed to by the parents, guardian, or the person himself
 3 pursuant to ~~section~~ 38-1204 or ordered by the court, the
 4 professional person in charge of the case concludes that the
 5 person evaluated is seriously developmentally disabled and
 6 recommends that treatment and habilitation be had in a
 7 residential facility on an extended basis, the professional
 8 person shall file his written recommendation and report
 9 with the court and request that the court order the
 10 admission. The report shall include the factual basis for
 11 the recommendation, and shall describe any tests or
 12 evaluation devices which have been employed in evaluating
 13 the patient. If no responsible person has yet been
 14 appointed, the court may appoint one at this time. If there
 15 is no parent or guardian, the court shall appoint a
 16 responsible person. At the request of the respondent, his
 17 parents or guardian, or the responsible person, the court
 18 shall appoint counsel for the respondent. If the parents
 19 [or guardian] are indigent and if they request it, the court
 20 shall appoint counsel for the parents or guardian. Notice
 21 of the recommendation shall be mailed or delivered to the
 22 respondent, his parents or guardian, the responsible person,
 23 next of kin, if known, and the attorney for the respondent,
 24 if any, and for the parents or guardian, if any.

25 (2) The respondent, his parents or guardian, the

1 responsible person, or the attorney for any party may
 2 request that a hearing be had on the recommendation. If a
 3 hearing is requested, the court shall mail or deliver notice
 4 of the date, time, and place of the hearing to each of the
 5 parties listed at the beginning of this subsection. The
 6 hearing shall be to the court without jury. The rules of
 7 civil procedure shall apply.

8 (3) If the court finds that the respondent is
 9 seriously developmentally disabled and that available
 10 community-based services are not adequate, it shall order
 11 the respondent admitted to a residential facility for an
 12 extended course of treatment and habilitation. If the court
 13 finds that the respondent is developmentally disabled, ~~and~~
 14 in need of developmental ~~disabilities~~ disability services,
 15 ~~but~~ and that available community-based services are
 16 adequate, it shall order the respondent to undertake a
 17 community-based course of treatment and habilitation. If
 18 the court finds that the respondent is not developmentally
 19 disabled or is not in need of developmental disability
 20 services, it shall dismiss the request.

21 (4) If none of the parties notified of the
 22 recommendation request a hearing, the court may issue an
 23 order authorizing the person to be admitted to the
 24 residential facility for an extended period of treatment and
 25 habilitation, or the court may initiate its own inquiry as

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1 to whether the order should be granted. The court may
2 refuse to authorize admission of a person to a residential
3 facility for an extended period of treatment and
4 habilitation if such admission is not in the best interests
5 of the person.

6 (5) If any person is admitted to a residential
7 facility for an extended course of habilitation without a
8 hearing, and if subsequent to such admission one of the
9 parties who could have requested a hearing learns that an
10 alternative course of treatment is available which is more
11 suitable to the needs of the resident, the party may request
12 the professional person in charge of the resident to release
13 the resident to the alternative, if it is a community-based
14 alternative, or transfer the resident to the alternative, if
15 it is a residential alternative. Any such transfer or
16 release shall comply with the requirements of ~~section~~
17 38-1209. If the professional person in charge of the
18 resident refuses to authorize the release or transfer, then
19 the party may petition the court for a hearing to determine
20 whether the present residential alternative should be
21 continued. The hearing shall comply with the procedures set
22 forth in subsection (2) of this section."

23 Section 9. Section 38-1222, R.C.M. 1947, is amended to
24 read as follows:

25 "38-1222. ~~Other rights while in a residential facility~~

1 ~~Right to habilitation.~~ (1) Persons admitted to residential
2 facilities shall have a right to habilitation, including
3 medical treatment, education, and care, suited to their
4 needs, regardless of age, degree of retardation, or
5 handicapping condition. Each resident has a right to a
6 habilitation program which will maximize his human abilities
7 and enhance his ability to cope with his environment. Every
8 residential facility shall recognize that each resident,
9 regardless of ability or status, is entitled to develop and
10 realize his fullest potential. The facility shall implement
11 the principle of normalization so that each resident may
12 live as normally as possible.

13 (2) Residents shall have a right to the least
14 restrictive conditions necessary to achieve the purposes of
15 habilitation. To this end, the facility shall make every
16 attempt to move residents from:

- 17 (a) more to less structured living;
- 18 (b) larger to smaller facilities;
- 19 (c) larger to smaller living units;
- 20 (d) group to individual residence;
- 21 (e) segregated from the community to integrated into
22 the community living;
- 23 (f) dependent to independent living.
- 24 (3) Within ~~thirty~~ (30) days of his admission to a
25 residential facility, each resident shall have an evaluation

1 by appropriate specialists for programming purposes.

2 (4) Each resident shall have an individualized
3 habilitation plan formulated by the facility. This plan
4 shall be developed by appropriate professional persons and
5 implemented as soon as possible but no later than ~~fourteen~~
6 ~~(14)~~ days after the resident's admission to the facility.
7 An interim program of habilitation, based on the
8 preadmission evaluation conducted pursuant to this act,
9 shall commence promptly upon the resident's admission. Each
10 individualized habilitation plan shall contain:

11 (a) a statement of the nature of the specific
12 limitations and specific needs of the resident;

13 (b) a description of intermediate and long-range
14 habilitation goals with a projected timetable for their
15 attainment;

16 (c) a statement of, and an explanation for, the plan
17 of habilitation for achieving these intermediate and
18 long-range goals;

19 (d) a statement of the least restrictive setting for
20 habilitation necessary to achieve the habilitation goals of
21 the resident;

22 (e) a specification of the professional persons and
23 other staff members who are responsible for the particular
24 resident's attaining these habilitation goals;

25 (f) criteria for release to less restrictive settings

1 for habilitation, including criteria for discharge and a
2 projected date for discharge.

3 (5) As part of his habilitation plan, each resident
4 shall have an individualized ~~post-institutionalization~~
5 ~~postinstitutionalization~~ plan. This plan shall be developed
6 by a professional person who shall begin preparation of such
7 plan upon the resident's admission to the institution and
8 shall complete such plan as soon as practicable. The
9 parents or guardian or next of kin of the resident, the
10 responsible person appointed by the court, if any, and the
11 resident, if able to give informed consent, shall be
12 consulted in the development of such plan and shall be
13 informed of the content of such plan.

14 (6) In the interests of continuity of care, one
15 professional person shall whenever possible be responsible
16 for supervising the implementation of the habilitation plan,
17 integrating the various aspects of the habilitation
18 program, and recording the resident's progress as measured
19 by objective indicators. This professional person shall
20 also be responsible for ensuring that the resident is
21 released when appropriate to a less restrictive habilitation
22 setting.

23 (7) The habilitation plan shall be continuously
24 reviewed by the professional person responsible for
25 supervising the implementation of the plan and shall be

modified if necessary. In addition, ~~six~~ (6) months after admission and at least annually thereafter, each resident shall receive a comprehensive psychological, social, educational, and medical diagnosis and evaluation, and his habilitation plan shall be reviewed by an interdisciplinary team of no less than two (2) professional persons and such resident care workers as are directly involved in his habilitation and care. A habilitation plan shall be reviewed monthly.

(8) Each resident discharged to the community shall have a program of transitional habilitation assistance.

(9) The professional person in charge of the residential facility shall report in writing to the parents or guardian of the resident, or the responsible person, at least every ~~six~~ (6) months on the resident's educational, vocational, and living skills progress and medical condition. Such report shall also state any appropriate habilitation program which has not been afforded to the resident because of inadequate habilitation resources.

(10) The parents or guardian of each resident, or the responsible person appointed by the court, shall promptly upon the resident's admission receive a written copy of all the above standards for adequate habilitation. Each resident, if the resident is able to comprehend, shall promptly upon his admission be orally informed in clear

language of the above standards and, where appropriate, be provided with a written copy."

Section 10. Section 38-1302, R.C.M. 1947, is amended to read as follows:

"38-1302. Definitions. As used in this act the following definitions apply:

(1) "Board" means the mental disabilities board of visitors created by this act.

(2) "Court" means ~~the~~ a district court of the state of Montana.

(3) "Department" means the department of institutions provided for in Title 82A, Chapter 10.

(4) "Emergency situation" means a situation in which any person is in imminent danger of death or serious bodily harm from the activity of a person who appears to be seriously mentally ill.

(5) "Mental disorder" means any organic, mental, or emotional impairment which has substantial adverse effects on an individual's cognitive or volitional functions.

(6) "Mental health facility" or "facility" means a public hospital or a licensed private hospital or, a community mental health center, or any mental health clinic or treatment center approved by the department. No correctional institution or facility, or jail, is a mental health facility within the meaning of this act.

(7) "Next of kin" shall include, but need not be limited to, the spouse, parents, adult children, and adult brothers and sisters of a person.

(8) "Patient" means a person committed by the court to a ~~seventy-two (72) hour~~ 72-hour evaluation or treatment or for a longer period.

(9) "Peace officer" means any sheriff, deputy sheriff, marshal, policeman, or other peace officer.

(10) "Professional person" means:

(a) a medical doctor, or

(b) a person trained in the field of mental health and certified by the department of ~~institutions~~ in accordance with standards of professional licensing boards, federal regulations, and the joint commission on accreditation of hospitals.

(11) "Respondent" means a person alleged in a petition filed pursuant to this act to be seriously mentally ill.

(12) "Responsible person" means any person willing and able to assume responsibility for a seriously mentally ill person, or person alleged to be seriously mentally ill, including next of kin; the person's conservator or legal guardian, if any; representatives of a charitable or religious organization, or any other person appointed by the court to perform the functions of a "responsible person" set out in this act. Only one person shall at any one time

be the "responsible person" within the meaning of this act. In appointing a responsible person, the court shall consider the preference of the respondent. The court may, at any time for good cause shown, change its designation of the "responsible person".

(13) "Seriously mentally ill" means suffering from a mental disorder which has resulted in self-inflicted injury or injury to others, or the imminent threat thereof, or which has deprived the person afflicted of the ability to protect his life or health. No person may be involuntarily committed to a mental health facility ~~and~~ or detained for evaluation and treatment because he is an epileptic, mentally deficient, mentally retarded, senile, or suffering from a mental disorder unless the condition causes the person to be seriously mentally ill within the meaning of this act."

Section 11. Section 41-817, R.C.M. 1947, is amended to read as follows:

"41-817. Definitions. (1) "Severely handicapped person" means any individual:

(a) who has a physical or mental impairment which requires multiple services over an extended period of time and results from amputation, blindness, cancer, cerebral palsy, cystic fibrosis, deafness, heart disease, hemiplegia, respiratory or pulmonary dysfunction, mental retardation,

1 mental illness, multiple sclerosis, muscular dystrophy,
2 neurological disorders (including stroke and epilepsy),
3 paraplegia, quadriplegia, and other spinal cord conditions,
4 renal failure, and any other disability, specified by the
5 department in regulations it shall prescribe; and/or

6 (b) who, because of lack of social competence,
7 mobility, experience, skills, training, or other successful
8 characteristics, is in need of sheltered employment or work
9 activity services in a protective setting.

10 (2) "Physical or mental disability" means a physical
11 or mental condition which materially limits, contributes to
12 limiting, or, if not corrected, will probably result in
13 limiting an individual's activities or functioning. The term
14 includes behavioral disorders characterized by deviant
15 social behavior or impaired ability to carry out normal
16 relationships with family and community which may result
17 from vocational, educational, cultural, social,
18 environmental, or other factors.

19 (3) "Vocational rehabilitation services" means goods
20 or services provided handicapped persons to enable such
21 persons to be fit for gainful occupation or to attain or
22 maintain a maximum degree of self-support or self-care and
23 includes every type of goods and services for which federal
24 funds are available for vocational rehabilitation purposes,
25 including, but not limited to, the establishment,

1 construction, development, operation, and maintenance of
2 workshops and rehabilitation facilities.

3 (4) "Self-care" means a reasonable degree of
4 restoration from dependency upon others for personal needs
5 and care and includes but is not limited to ability to live
6 in own home, rather than requiring nursing home care and
7 care for self rather than requiring attendant care.

8 (5) "Department" means the department of social and
9 rehabilitation services.

10 (6) "Sheltered workshop" means a charitable
11 organization or institution conducted not for profit, but
12 for the purpose of carrying out a recognized program of
13 rehabilitation for handicapped workers, and/or providing
14 such individuals with remunerative employment or other
15 occupational rehabilitating activity of an educational or
16 therapeutic nature.

17 (7) "Work activity center" means a physically
18 separated department of a workshop having an identifiable
19 program, separate supervision and records, and which is
20 planned and designed exclusively to provide therapeutic
21 activities for handicapped workers whose physical or mental
22 impairment is so severe as to make their productive capacity
23 inconsequential. Therapeutic activities include custodial
24 activities (such as activities where the focus is on teaching
25 the basic skills ~~of~~ of living), and any purposeful activity

1 so long as work or production is not the main purpose."

2 Section 12. Section 71-113, R.C.M. 1947, is amended to
3 read as follows:

4 "71-113. Bond of contractor -- duty of physician to
5 examine and notify contractor. ~~Any~~ A person with whom ~~any~~ a
6 ~~such~~ contract for the maintenance of medical attendance of
7 the poor or indigent sick is made must execute a bond to the
8 state in a sum not less than ~~one thousand~~ \$1,000 ~~or~~ or more
9 than ~~five thousand dollars~~ \$5,000, with two or more
10 sureties, conditioned for the faithful performance of his
11 contract. ~~said~~ The bond is to be approved by and filed with
12 the chairman of the board. ~~It is the duty of the~~ The
13 physician with whom ~~the~~ a contract for medical attendance is
14 made ~~to examine~~ shall each week examine any person who is a
15 charge upon the county, and if, after ~~such~~ the examination,
16 he is satisfied that ~~such~~ the person is able to support and
17 maintain himself, he must ~~so~~ notify the contractor having
18 the person in charge, by leaving with the contractor a
19 notice of the fact that ~~such~~ the person requires no further
20 medical attendance, ~~and he shall~~ file a duplicate thereof
21 notice with the clerk of the board. After the ~~servicing~~ of
22 ~~said~~ physician serves the notice and files files the
23 duplicate thereof with the clerk, the person mentioned
24 therein ceases to be a charge upon the county."

25 Section 13. Section 71-207, R.C.M. 1947, is amended to

1 read as follows:

2 "71-207. ~~Legal services~~ Attorney general to act as
3 legal adviser to department. The attorney general of the
4 state shall act as legal adviser to the state department,
5 ~~and~~ shall perform such legal services as may be required,
6 and ~~he is hereby empowered to~~ may employ such other and
7 additional counsel as may be necessary for this purpose, and
8 ~~may~~ fix the compensation therefor, ~~provided, however, that~~
9 ~~the~~ The total yearly sum ~~per annum~~ for the service shall may
10 not exceed ~~twenty-four hundred~~ (\$2,400.00) dollars, which
11 compensation shall be paid out of state public welfare
12 assistance funds."

13 Section 14. Section 71-210, R.C.M. 1947, is amended to
14 read as follows:

15 "71-210. ~~Authority Powers~~ and activities duties of the
16 state department. (1) ~~The state department has authority~~
17 ~~over and administration or supervision of all the purposes~~
18 ~~and operations as set forth under Title 71~~. The state
19 department shall:

20 (a) ~~Administer~~ administer or supervise all forms of
21 public assistance, child protection, and child welfare,
22 including the provision of medical care payments in behalf
23 of recipients of public assistance;

24 (b) ~~Administer~~ administer or supervise all child
25 welfare activities, including importation and exportation of

14

1 children; licensing and supervising of private and local
2 child-caring agencies; the care of dependent, neglected, and
3 delinquent children in foster family homes, especially
4 children placed for adoption or those of illegitimate birth;

5 (c) ~~Give~~ give consultant service to private
6 institutions providing care for the needy, indigent,
7 handicapped, or dependent adults;

8 (d) ~~Develop and~~ cooperate with other state agencies
9 ~~and develop~~ provisions for services to the blind, including
10 the prevention of blindness, the location of blind persons,
11 medical services for eye conditions, and vocational guidance
12 and training of the blind;

13 (e) ~~Provide~~ provide services in respect to
14 organization and supervise county departments of public
15 welfare and county boards of public welfare in the
16 administration of public welfare assistance functions, and
17 for efficiency and economy;

18 (f) ~~Assist~~ assist and cooperate with other state and
19 federal departments, bureaus, agencies, and institutions,
20 when so requested, by performing services in conformity with
21 ~~the purposes of this act, public assistance purposes; and~~

22 (g) ~~Administer~~ administer and supervise all federal
23 funds allocated to this state and all state funds
24 appropriated to ~~this the~~ state department for ~~the activities~~
25 ~~set forth in Title 71 public assistance activities.~~ The

1 state department shall do all things necessary, in
2 conformity with federal and state law, for the proper
3 fulfillment of ~~the purposes set forth in Title 71~~ public
4 assistance purposes.

5 (2) The state department may:

6 (a) ~~Purchase~~ purchase, exchange, condemn, or receive
7 by gift, either real or personal property which is necessary
8 to carry out its public assistance functions ~~under Title 71.~~
9 Title to property obtained under this subsection shall be
10 taken in the name of the state of Montana, for the use and
11 benefit of the state department.

12 (b) ~~Contract~~ contract with the federal government to
13 carry out its public assistance functions ~~under Title 71.~~
14 The state department may do all things necessary in order to
15 avail itself of federal aid and assistance."

16 Section 15. Section 71-211, R.C.M. 1947, is amended to
17 read as follows:

18 "71-211. State department to act as agency of federal
19 government — assistance to ward Indians. (1) The state
20 department shall act as the agent of the federal government
21 in public welfare assistance matters of mutual concern in
22 conformity with this act and the ~~Federal~~ federal Social
23 Security Act, and in the administration of any federal funds
24 granted to the state to aid in the purposes and functions of
25 the state department.

(2) The counties shall not be required to reimburse the state department for any portion of old-age assistance, medical assistance, aid to needy dependent children, or aid to needy blind, or aid to the totally disabled paid to ward Indians or for any payment on behalf of any person in a state-operated medical institution, further provided that the ~~The~~ federal government may reimburse the state of Montana in behalf of counties, providing general relief to ward Indians, a sum in lieu of taxes which the counties would collect if the lands of such ward Indians were not in trust status. A "ward Indian" is hereby defined as an Indian who is living on an Indian reservation set aside for tribal use, or is a member of a tribe or nation accorded certain rights and privileges by treaty or by federal statutes. If and when the ~~Federal~~ federal Social Security Act is amended to define a "ward Indian," such definition shall supersede the foregoing definition."

Section 16, Section 71-212, R.C.M. 1947, is amended to read as follows:

"71-212. State Power of state department in administering state grants-in-aid. In administering or supervising any state or federal funds appropriated or made available to the state department for public welfare assistance purposes, the state department shall have the authority to:

~~(a)(1) Require~~ require as a condition for receiving grants-in-aid that the county shall bear the proportion of the total of local public assistance as is fixed by law relating to such assistance;

~~(b)(2) Make~~ make use of all legal processes to enforce the minimum standards prescribed by the state department under laws providing for grants-in-aid, provided that such standards shall not exceed in cost the amount derived from levies established by state law; and

~~(c)(3) Require~~ require that each part of ~~this act~~ the public assistance laws shall be in effect in all counties of the state."

Section 17, Section 71-213, R.C.M. 1947, is amended to read as follows:

"71-213. County departments to be established. There shall be established in each county of the state a county department of public welfare which shall consist of a county board of public welfare and such staff personnel as may be necessary for the efficient performance of the public welfare assistance activities of the county. ~~Provided, however, if~~ If conditions warrant and if two or more county boards enter into an agreement, two or more counties may combine into one administrative unit and use the same staff personnel throughout the administrative unit."

Section 18, Section 71-214, R.C.M. 1947, is amended to

1 read as follows:

2 "71-214. County commissioners ex officio county
3 welfare board — compensation. The board of county
4 commissioners, ex officio, shall be the county welfare board
5 and is hereby authorized to devote such additional time for
6 public welfare assistance matters as may be found necessary.
7 The members of the county welfare board shall receive the
8 same compensation for their services and the same mileage
9 when acting as the county board of public welfare as they
10 receive when acting as the board of county commissioners and
11 shall be limited as to meetings as now provided by law, and
12 the compensation and mileage of the members of the board
13 shall be paid from county funds. They may transact business
14 as a board of county commissioners and as a county welfare
15 board on the same day, and in such cases they shall be paid
16 as a board of county commissioners, but ~~shall in no case~~ may
17 not receive compensation for more than ~~one~~ 1 day's work for
18 all services performed on the same calendar day."

19 Section 19. Section 71-216, R.C.M. 1947, is amended to
20 read as follows:

21 "71-216. Powers and duties of the county board. The
22 county board of public welfare ~~shall be~~ is responsible for
23 establishing local policies and such rules ~~and regulations~~
24 as are necessary to govern the county department and local
25 administration of public ~~welfare~~ assistance activities

1 except that all such policies and rules ~~and regulations~~ must
2 be in conformity with general policies and rules ~~and~~
3 ~~regulations~~ established by the state department. The county
4 board of public welfare shall review the determinations of
5 eligibility and amount of payment to or on behalf of
6 individuals made by the staff of the county department for
7 conformity with the aforesaid rules ~~and regulations~~.
8 Determinations not in conformity will be referred to the
9 staff by the county welfare board for appropriate action as
10 authorized by ~~said~~ the board."

11 Section 20. Section 71-217, R.C.M. 1947, is amended to
12 read as follows:

13 "71-217. Staff personnel — how selected, paid, and
14 controlled — dismissal. (1) Each county board shall select
15 and appoint from a list of qualified persons furnished by
16 the state department such staff personnel as are necessary.
17 The staff personnel in each county shall consist of at least
18 one qualified staff worker (or investigator) and such clerks
19 and stenographers as may be decided necessary. If conditions
20 warrant, the county board, with the approval of the state
21 department, may appoint some fully qualified person listed
22 by the state department as supervisor of its staff
23 personnel. The staff personnel of each county department are
24 directly responsible to the county board, but the state
25 department ~~shall have the authority to~~ may supervise such

1 county employees in respect to the efficient and proper
2 performance of their duties. The county board of public
3 welfare ~~shall~~ may not dismiss any member of the staff
4 personnel without the approval of the state department, ~~but~~
5 the state department ~~shall have the authority to~~ may request
6 the county board to dismiss any member of the staff
7 personnel for inefficiency, incompetence, or similar cause.

8 (2) Public assistance staff personnel attached to the
9 county board shall be paid from state public welfare
10 assistance funds, both their salaries and their travel
11 expenses, as provided for in ~~sections~~ 59-538, 59-539, and
12 59-801, when away from the county seat in the performance of
13 their duties, ~~but~~ the county board of public welfare shall
14 reimburse the state department, from county poor funds,
15 one-half of the payments so made to its public assistance
16 staff personnel, except that, under circumstances prescribed
17 by the state department, the reimbursement by the county
18 board of public welfare may be less than one-half. All other
19 administrative costs of the county department shall also be
20 paid from county poor funds.

21 (3) On or before the 20th day of the month following
22 the month for which the payments to the public assistance
23 staff personnel of the county were made, the state
24 department shall present to the county department of public
25 welfare a claim for the required reimbursements. The county

1 board shall make such reimbursements within ~~twenty~~ (20) days
2 after the presentation of the claim, and the state
3 department shall credit (add) all such reimbursements to its
4 account for administrative costs."

5 Section 21. Section 71-222, R.C.M. 1947, is amended to
6 read as follows:

7 "71-222. ~~Village taxes to be levied~~
8 ~~expenditures budgets County to levy taxes, budget, and make~~
9 ~~expenditures for public assistance activities.~~ (1) The board
10 of county commissioners in each county shall levy ~~seventeen~~
11 ~~(17)~~ 13.5 mills for the county poor fund as provided by law,
12 or so much thereof as may be necessary. The board shall
13 budget and expend so much of the funds in the county poor
14 fund for all public assistance purposes ~~of this act~~ as will
15 enable the county welfare department to pay the general
16 relief activities of the county and to reimburse the state
17 department for the county's proportionate share of the
18 administrative costs of the county welfare department and of
19 all public assistance and its proportionate share of any
20 other ~~welfare~~ public assistance activity that may be carried
21 on jointly by the state and the county.

22 (2) The amounts set up in the budget for the
23 reimbursements to the state department shall be sufficient
24 to make all of these reimbursements in full. The budget
25 shall make separate provision for each one of these public

1 assistance activities, and proper accounts shall be
2 established for the funds for all such activities.

3 (3) As soon as the preliminary budget provided for in
4 ~~section~~ 16-1903 has been agreed upon, a copy thereof shall
5 without delay be mailed to the state department, and at any
6 time before the final adoption of the budget, the department
7 shall make such recommendations with regard to changes in
8 any part of the budget relating to the county poor fund as
9 considered necessary in order to enable the county to
10 discharge its obligations under the ~~Public Welfare Act~~
11 public assistance laws.

12 (4) The state department shall promptly examine the
13 preliminary budget in order to ascertain if the amounts
14 provided for reimbursements to the state department are
15 likely to be sufficient, and shall notify the county clerk
16 of ~~his~~ its findings. The board shall make such changes in
17 the amounts provided for reimbursements, if any are
18 required, in order that the county will be able to make the
19 reimbursements in full.

20 (5) The board of county commissioners may not make any
21 transfer from the amounts budgeted for reimbursing the state
22 department without having first obtained a statement in
23 writing from the state department to the effect that the
24 amount to be transferred will not be required during the
25 fiscal year for the purposes for which the amounts were

1 provided in the budget.

2 (6) No part of the county poor fund, irrespective of
3 the source of any part thereof, may be used directly or
4 indirectly for the erection or improvement of any county
5 building so long as the fund is needed for general relief
6 expenditures by the county or is needed for paying the
7 county's proportionate share of public assistance, or its
8 proportionate share of any other ~~welfare~~ public assistance
9 activity that may be carried on jointly by the state and the
10 county. Expenditures for improvement of any county buildings
11 used directly for care of the poor may be made out of any
12 moneys in the county poor fund, whether such moneys are
13 produced by ~~the seventeen (17) mill 13.5 mill~~ levy provided
14 for in ~~paragraph one subsection~~ (1) of this section or from
15 any additional levy authorized or to be authorized by law.
16 Such expenditure shall be authorized only when any county
17 building used for the care of the poor must be improved in
18 order to meet legal standards required for such buildings by
19 the department of health and environmental sciences, and,
20 when such expenditure has been approved by the state
21 department."

22 Section 22. Section 71-226, R.C.M. 1947, is amended to
23 read as follows:

24 "71-226. ~~Fraudulent acts~~ Fraudulent obtainment of
25 public assistance a misdemeanor. Whoever knowingly obtains,

1 or attempts to obtain, or aids, or abets any person to
 2 obtain, by means of a willfully false statement or
 3 representation or by impersonation, or other fraudulent
 4 device, public assistance to which he is not entitled, or
 5 assistance greater than that to which he is justly
 6 entitled, or whoever aids or abets in buying or in any way
 7 disposing of the property, either personal or real, of a
 8 recipient of assistance without the consent of the county
 9 department and with the intent to defeat the purposes of
 10 this act, ~~shall be~~ is guilty of a misdemeanor. In assessing
 11 the penalty, the court shall take into consideration, among
 12 other factors, the amount of money fraudulently received."

13 Section 23. Section 71-230, R.C.M. 1947, is amended to
 14 read as follows:

15 "71-230. Method of issuing assistance grants —
 16 reimbursement. ~~(a)(1)~~ Checks in payment of public
 17 assistance, ~~as provided for in each part of this act,~~ with
 18 the exception of general relief, shall be issued by the
 19 state department upon approved certificates of award and
 20 reports of changes of such eligible grantees as are
 21 forwarded by the county department to the state department,
 22 and all such checks will be mailed to the individual
 23 recipient or the appropriate vendor. The checks in payment
 24 of public assistance shall be issued in the full approved
 25 amount for each eligible approved grantee, and the original

1 monthly payment shall be from the state public welfare
 2 assistance accounts. All public assistance checks shall
 3 represent cash on demand at full par value to the recipient
 4 and vendor.

5 ~~(b)(2)~~ Whenever the state department, acting pursuant
 6 to standards established by ~~said~~ the department, ~~shall~~
 7 ~~determine~~ determines that any otherwise eligible recipient
 8 of ~~old-age~~ old-age assistance, aid to the needy blind, or
 9 aid to the permanently and totally disabled, has, by reason
 10 of any physical or mental condition, such inability to
 11 manage funds that making payments to him would be contrary
 12 to his welfare, the department may, under standards
 13 established under the state plan, make the public assistance
 14 payment on behalf of such recipient to another person found
 15 by the department to be interested in or concerned with the
 16 welfare of such needy individual. Before such payments may
 17 be paid to such other person, such person shall give a bond,
 18 with adequate corporate surety and in form to be approved by
 19 the state department, running in favor of the needy
 20 individual and the state of Montana, conditioned upon the
 21 faithful use by such other person of the funds for the
 22 welfare of the ~~said~~ needy individual. Such bond shall be in
 23 an amount equal to six ~~(6)~~ times the amount of the monthly
 24 payment involved.

25 ~~(c)(3)~~ On or before the ~~twentieth~~ 20th of each month

1 the state department ~~will~~ shall present a claim for
 2 reimbursement to each county department for its
 3 proportionate share of public assistance granted in the
 4 county to recipients during the month and for vendor medical
 5 payments made on behalf of recipients in the previous month.
 6 The county department ~~must~~ shall make ~~such~~ the reimbursement
 7 to the state department within ~~twenty~~ (20) days after ~~such~~
 8 the claim is presented."

9 Section 24. Section 71-233.1, R.C.M. 1947, is amended
 10 to read as follows:

11 "71-233.1. Investigations and enforcement actions by
 12 department of revenue ~~enforcement actions~~. When requested
 13 by the department of social and rehabilitation services, the
 14 department of revenue shall ~~have the power and duty to~~:

15 ~~(a)~~ (1) investigate matters relating to public ~~welfare~~
 16 assistance and vendor payments, including but not limited to
 17 the claim for an acceptance of ~~welfare~~ public assistance
 18 benefits by ~~welfare~~ public assistance recipients, and the
 19 receipt and disbursement of ~~welfare~~ public assistance funds by
 20 state, county, or other governmental agencies;

21 ~~(b)~~ (2) institute civil or criminal actions in the
 22 appropriate courts to enforce the ~~welfare~~ public assistance
 23 laws and violations thereof."

24 Section 25. Section 71-233.3, R.C.M. 1947, is amended
 25 to read as follows:

1 "71-233.3. Information made available to department of
 2 revenue. (1) The department of social and rehabilitation
 3 services and its local units shall make available to the
 4 department of revenue information contained in the ~~welfare~~
 5 public assistance files pertinent to the investigations and
 6 judicial actions described in ~~section 1~~ [71-233.1].

7 (2) Every other state, county, or other governmental
 8 agency shall make available to the agents or attorneys of
 9 the department of revenue, all records, files, memoranda,
 10 forms, or other papers relating to public ~~welfare~~ assistance
 11 matters, including income tax returns filed with the
 12 department of revenue."

13 Section 26. Section 71-302.2, R.C.M. 1947, is amended
 14 to read as follows:

15 "71-302.2. Residency requirements. (1) Any person
 16 otherwise qualified who makes his home in ~~the state of~~
 17 Montana with the intent to become a resident shall be
 18 eligible for general relief. Upon the filing of his
 19 application in the county of residence, ~~he is a qualified~~
 20 applicant's general relief assistance shall be paid entirely
 21 from state funds until he has resided for ~~one~~ (1) continuous
 22 year in ~~the state of~~ Montana, at which time he shall become
 23 a financial responsibility of the county in which he resides
 24 at the expiration of the ~~one~~ (1) year 1-year period. A
 25 person who leaves ~~the state of~~ Montana with the intent to

1 reside in another state, and later returns to reside in ~~the~~
 2 ~~state of Montana, shall be deemed~~ is considered a new
 3 resident for the purposes of this act. If a recipient moves
 4 from his original county of residence to reside in another
 5 county, he shall continue to be a financial responsibility
 6 of the original county of residence for ~~one (1) year~~ from
 7 the date of his change of residence. If during this ~~one (1)~~
 8 ~~year 1-year~~ period, the individual resides in several
 9 counties, he shall become a financial responsibility of the
 10 county in which he resides at the expiration of the ~~one (1)~~
 11 ~~year 1-year~~ period. County medical assistance under ~~section~~
 12 71-308 shall not be entitled to be paid from state funds.

13 (2) If a person is absent from the state voluntarily,
 14 he ~~shall be~~ is ineligible for general relief in ~~the state of~~
 15 Montana. Aliens found to be illegally within the United
 16 States ~~shall are~~ not be eligible for relief from state
 17 funds.

18 (3) Recipients of public assistance who become wards
 19 or patients in a licensed nursing home or hospital, foster
 20 home, or a private charitable institution shall have the
 21 county share of financial participation paid entirely from
 22 state funds for ~~one (1) year~~ from the original date of
 23 entrustment or the original date of state residency,
 24 whichever is earlier. At the expiration of such period, the
 25 appropriate county, as defined by the following guidelines,

1 shall become financially responsible to the extent of its
 2 legally required share of participation. The county in which
 3 commitment of an adult is initiated ~~shall be deemed~~ is
 4 considered the county of financial responsibility except
 5 where court decree declares the residency to be otherwise.
 6 ~~Where~~ When an adult is transferred from a facility or
 7 institution to one of the above-enumerated facilities, the
 8 county which initiated the original commitment ~~shall be~~
 9 ~~deemed~~ is considered the county of financial responsibility
 10 except in the case of an adult transfer from an out-of-state
 11 institution, in which case the county in which the facility
 12 is located ~~shall be deemed~~ is considered the county of
 13 financial responsibility. In all cases where a minor patient
 14 or ward is involved, the county of financial responsibility
 15 ~~shall be~~ is the county in which the parent or guardian
 16 resides. ~~Where~~ If the custody of a minor is entrusted to a
 17 state agency, the agency ~~shall have the power to~~ may make a
 18 reasonable declaration of the county residency of its ward
 19 using applicable guidelines enumerated in this section. A
 20 person who reaches majority in an institution, ~~shall upon~~
 21 release and restoration to competency, ~~have the power to~~ may
 22 determine his own county residency. Such person shall
 23 continue to be a financial responsibility of the county
 24 which initiated the original commitment for ~~one (1) year~~
 25 from the date of release, at which time he shall become a

22

1 financial responsibility of his new county of residence.

2 (4) Nonresidents or interstate transients may receive
3 temporary relief from county funds in cases of extreme
4 necessity and destitution until they ~~may be~~ are returned at
5 state expense to their state of residence or origin. Medical
6 expenses arising from accidental injury to interstate
7 transients shall be paid from county funds and reimbursed by
8 the state upon submission of a proper claim.

9 (5) "Interstate transient", as the term is used in
10 this act, is defined as an individual who has signed a
11 declaration that he is unable to pay for his own necessities
12 or transportation to return to his state of residence or
13 origin and is en route to a point outside of this state,
14 being unable, due to unexpected distress, to reach his
15 destination."

16 Section 27. Section 71-303, R.C.M. 1947, is amended to
17 read as follows:

18 "71-303. Eligibility for general relief -- based on
19 investigation of resources. An applicant for general relief
20 assistance, including medical care and hospitalization,
21 shall be eligible to receive assistance only after
22 investigation by the county department reveals that the
23 income and resources are insufficient to provide the
24 necessities of life, ~~and assistance.~~ Assistance shall be
25 provided to meet a minimum subsistence compatible with

1 decency and health."

2 Section 28. Section 71-305, R.C.M. 1947, is amended to
3 read as follows:

4 "71-305. Equal Right of equal consideration. Persons
5 eligible for and in need of general relief ~~shall be~~, whether
6 employable or unemployable, ~~shall be~~ given equal
7 consideration for public assistance as those persons
8 eligible for assistance under other parts of this act."

9 Section 29. Section 71-306, R.C.M. 1947, is amended to
10 read as follows:

11 "~~71-306. Right of hearing. Grievances concerning~~
12 general relief assistance. Individuals or committees with
13 complaints or grievances concerning general relief
14 assistance may present their complaints or grievances to
15 either the county board or the state department, and due
16 consideration shall be given all proven facts presented by
17 the individuals or committees. The county board or the state
18 department shall take action to relieve situations brought
19 to their attention under this section to the extent of funds
20 available."

21 Section 30. Section 71-307, R.C.M. 1947, is amended to
22 read as follows:

23 "71-307. Relief by check or disbursing orders. (1) All
24 general relief disbursements by county departments of public
25 welfare shall be by warrant or check. However, if the county

1 welfare department finds that a recipient is in the habit of
 2 dissipating general relief allowances instead of using them
 3 for the purposes intended, or that for any other reason it
 4 is better for the recipient and his family to receive the
 5 allowance through disbursing orders, then disbursing orders
 6 shall be used instead of cash payments, ~~but all, All~~ such
 7 disbursing orders must be written in such form that the
 8 goods and merchandise to be provided may be furnished by any
 9 regular dealer in such goods and merchandise within the
 10 county. A recipient of general relief must register for
 11 employment with the ~~State Employment Service~~ state
 12 employment service and must accept available employment
 13 within his or her capability. Refusal to accept such
 14 employment will render the recipient ineligible for further
 15 general relief assistance. If the county has work available
 16 which a recipient of general relief is capable of
 17 performing, then the county department of public welfare may
 18 require the recipient to perform the work at the prevailing
 19 rate of wages paid by that county for similar work, to be
 20 paid from the county poor fund in place of granting him
 21 general relief.

22 (2) The county department of public welfare shall
 23 provide coverage under the ~~Workmen's~~ Workers' Compensation
 24 Act for those recipients of general relief working under the
 25 provisions hereof, and may enter into such agreements with

1 the division of ~~workmen's~~ workers' compensation of the
 2 department of labor and industry as may be necessary to
 3 carry out the provisions of this section.

4 (3) Any recipient of general relief who is subject to
 5 the provisions of this section and who without cause refuses
 6 to perform work assigned to him as herein provided, shall
 7 lose his eligibility for general relief for ~~one~~ one week for
 8 each refusal.

9 Section 31. Section 71-308, R.C.M. 1947, is amended to
 10 read as follows:

11 "71-308. ~~Medical County to provide medical aid and~~
 12 ~~hospitalization to indigent.~~ (1) ~~Medical Except as provided~~
 13 ~~in other parts of this act,~~ medical aid and hospitalization
 14 for nonresidents within the county and county residents
 15 unable to provide such necessities for themselves are the
 16 legal and financial duty and responsibility of the board of
 17 county commissioners, ~~except as otherwise provided in other~~
 18 ~~parts of this act,~~ payable from the county poor fund. The
 19 board of county commissioners shall make provisions for
 20 competent and skilled medical or surgical services as
 21 approved by the department of health and environmental
 22 sciences or the state medical association, or in the case of
 23 osteopathic practitioners by the state osteopathic
 24 association or chiropractors by the state chiropractic
 25 association, or optometrical services as approved by the

24

1 Montana optometric association and dental services as
2 approved by the dental association. "Medical" or "medicine"
3 as used in this ~~act~~ section refers to the healing art as
4 practiced by licensed practitioners.

5 (2) The board, in arranging for medical care for those
6 unable to provide it for themselves, may have the care
7 provided by the physicians appointed by the board who shall
8 be known as county physicians or deputy county physicians,
9 and may fix a rate of compensation for the furnishing of the
10 medical attendance.

11 (3) The board of county commissioners shall make
12 suitable arrangements to provide respectable burial for
13 nonresidents within the county and county residents for whom
14 such expenses are not otherwise available.

15 (4) The department of social and rehabilitation
16 services may promulgate rules to determine under what
17 circumstances persons in the county are unable to provide
18 medical aid and hospitalization for themselves, including
19 the power to define the term "medically needy." ~~Provided,~~
20 ~~however, such~~ Such definition may not allow payment by a
21 county for general assistance-medical for persons whose
22 income exceeds ~~three hundred percent (300%)~~ of the
23 limitation for obtaining regular county general relief
24 assistance.

25 (5) In any case where the county or state pays medical

1 expenses or hospitalization for an individual, the county or
2 state is subrogated to the claims of the physician or
3 hospital to the extent of payment."

4 Section 32. Section 71-311, R.C.M. 1947, is amended to
5 read as follows:

6 "71-311. Grants from state funds to counties. (1) If
7 the whole of a ~~six (6) mill~~ the 13.5 mill levy together with
8 ~~the whole of the per capita tax~~ authorized by ~~said section~~
9 71-106, and the income to the county poor fund from all
10 other sources ~~shall prove~~ is inadequate to pay for the
11 general relief in the county actually necessary and to meet
12 the county's proportionate share of public assistance and
13 its proportionate share of any other ~~welfare~~ public
14 assistance activity that may be carried on jointly by the
15 state and the county, and if warrants upon the county poor
16 fund can no longer lawfully be issued to meet these charges,
17 and if the board of county commissioners is unable to
18 declare an emergency for the purpose of providing additional
19 funds or to provide additional funds from any other source,
20 and if the county has in all respects expended the county
21 poor fund only for lawful purposes, and if all of these
22 conditions ~~actually~~ exist in any county of the state, then
23 the state department shall, ~~in so far~~ insofar as it has
24 funds available, come to the assistance of such county, in
25 the following manner:

(2) When the county in question has submitted proof to the state department, through such reports as it may require and through other evidence that may be deemed considered necessary, that these conditions exist, then the state department ~~may authorize the state department~~ is authorized to issue a check to the county treasurer of the county for general relief purposes, and the county department of public welfare shall make the disbursements of these state funds for general relief purposes within the county. These grants-in-aid from the state department may be used for any relief activity lawfully conducted by the county, including medical aid, hospitalization, and institutional care; but no part thereof may be used, directly or indirectly, to pay for the erection or improvement of any county building or for furniture, fixtures, appliances, or equipment for any such building.

(3) Immediately upon receiving notice that such grant-in-aid has been made by the state department, ~~it shall be the duty of~~ the board of county commissioners ~~to shall~~ adopt an emergency budget in accordance with the provisions of ~~section~~ 16-1907 but ~~without being~~ are not required to publish any notice of intention to adopt such emergency budget or ~~to~~ hold a hearing thereon. This emergency budget shall appropriate the whole amount of the general relief grant from the state department for the various classes of

expenditures from the poor fund for which the grant-in-aid was made by the state department. The money received through such general relief grant from the state department shall be placed in a special poor fund account kept separate and distinct from the poor fund accounts arising under the original poor fund budget, and all expenditures from this special poor fund account shall be made by a separate series of warrants or checks."

Section 33. Section 71-314, R.C.M. 1947, is amended to read as follows:

"71-314. ~~Granting of assistance~~ Amount of general relief assistance to be determined by county board. The amount of general relief assistance granted any person or family shall be determined by the county board of public welfare according to the rules ~~and regulations~~ and standards of assistance established by the state department."

Section 34. Section 71-501, R.C.M. 1947, is amended to read as follows:

"71-501. "Dependent child" defined. (1) (a) The term "dependent child", for ~~welfare~~ public assistance purposes, means:

(a) (i) a child under the age of ~~eighteen~~ (18); or
(b) (ii) a person under the age of ~~twenty-one~~ (21) who is a student under the regulations prescribed by the state department.

1 ~~(b) Such The children child~~ (1(a)(i) and or B (a)(ii)
 2 above) must be deprived of parental support or care by
 3 reason of the death, continued absence from the home,
 4 continued unemployment, or physical or mental incapacity of
 5 a parent, ~~and who is living~~ be living with his father,
 6 mother, grandfather, grandmother, brother, sister,
 7 stepfather, stepmother, stepbrother, stepsister, uncle,
 8 aunt, nephew, niece, or first cousin, in a place of
 9 residence maintained by one or more of such relatives as his
 10 or their own home.

11 (2) Aid to dependent children may not be denied to or
 12 for the care of children who would otherwise be entitled to
 13 such aid under the laws of this state by the fact that the
 14 child is living in the home of his ~~ex-his~~ father, who is, in
 15 the opinion of the county board of public welfare of the
 16 appropriate county, either unemployable or who is honestly
 17 and responsibly seeking proper employment and is unable to
 18 find such employment ~~as~~ or by the fact that the child is
 19 living in the home of a head of a household who is, at the
 20 time, receiving job training under the laws of this state;
 21 nor ~~shall~~ may the benefits which would otherwise accrue to
 22 the child for aid to dependent children under the laws of
 23 the state be reduced by reason of any such cause.

24 (3) Primary factors in determining whether a father is
 25 honestly and responsibly seeking employment include his

1 willingness to register for employment with the department
 2 of labor and industry, if that department has a
 3 representative in his county of residence, and his
 4 willingness to accept employment in which he is able to
 5 engage which will increase his ability to maintain himself
 6 and his family.

7 (4) The state department ~~of social and rehabilitation~~
 8 ~~services~~ may establish additional criteria for determining
 9 whether a father is honestly and responsibly seeking
 10 employment."

11 Section 35. Section 71-509, R.C.M. 1947, is amended to
 12 read as follows:

13 "71-509. Periodic reconsideration and changes in
 14 amount of assistance — appointment of guardian or payment
 15 to another person. (1) All assistance grants made under this
 16 chapter shall be reconsidered by the county department as
 17 frequently as may be required by the rules of the state
 18 department. After such further investigation as the county
 19 department may ~~deem~~ consider necessary or the state
 20 department may require, the amount of assistance may be
 21 changed or assistance may be entirely withdrawn if the state
 22 or county departments find that the child's circumstances
 23 have altered sufficiently to warrant such action, ~~provided,~~
 24 ~~however, that if~~ If the county department, after
 25 investigation, finds that any recipient is not utilizing the

1 grant adequately for the needs of the child or children, ~~or~~
 2 is dissipating such grant, or refuses or fails to accept
 3 employment or training, and payments made to him would not
 4 be used in the best interests of the child or children, the
 5 county department may request the county attorney to file a
 6 petition in the district court for the appointment of such
 7 recipient as guardian of the assistance grant in behalf of
 8 the child or children. Such petition shall set forth the
 9 facts warranting such appointment. Notice of the hearing on
 10 such petition shall be served upon the recipient and the
 11 county department not less than ~~five~~ (5) days before the
 12 date set for such hearing; such petition may be filed with
 13 the clerk of the district court and all process issued and
 14 served without payment of costs. If upon the hearing of such
 15 petition the court is satisfied that it is for the best
 16 interests of the child or children, and all parties
 17 concerned, that such guardian be appointed, he shall order
 18 such appointment, and may require such guardian to render to
 19 the court a detailed itemized account of expenditures of
 20 such assistance payments at such times as the court ~~may deem~~
 21 considers advisable.

22 (2) It is the intention of this ~~act~~ section that the
 23 guardianship herein provided for shall be a special and
 24 limited guardianship solely for the purpose of safeguarding
 25 the assistance grants made to dependent children. Such

1 guardianship shall terminate upon the termination of such
 2 assistance grant, or sooner on order of the court, upon good
 3 cause shown. In lieu of ~~said~~ guardianship proceedings,
 4 payments may be made in behalf of the child or children to
 5 another person found by the county department to be
 6 interested in or concerned with the welfare of such needy
 7 child or children in accordance with the rules and
 8 ~~regulations~~ established by the state department. Before such
 9 payments may be paid to such other person, such person shall
 10 give a bond, with adequate corporate surety and in form to
 11 be approved by the state department, running in favor of the
 12 needy individual and the state of Montana, conditioned upon
 13 the faithful use by such other person of the funds for the
 14 welfare of the needy individual. Such bond shall be in an
 15 amount equal to six times the amount of the monthly payment
 16 involved.

17 (3) ~~Providing however, when~~ When federal law or
 18 regulations ~~permit that require,~~ any amount ~~is a sum not~~
 19 ~~exceeding one hundred dollars (\$100.00) in any one (1)~~
 20 ~~calendar year~~ received by an enrolled member of a recognized
 21 Indian tribe as per capita payments or a share in the
 22 profits and receipts from tribal lands and interests or
 23 tribal enterprises ~~shall may~~ not be used to decrease the
 24 amount of assistance received under this act. ~~Before such~~
 25 ~~payments may be paid to such other person, such person shall~~

~~give a bond, with adequate corporate surety and in form to be approved by the state department, running in favor of the needy individual and the state of Montana, conditioned upon the faithful use by such other person of the funds for the welfare of the said needy individual. Such bond shall be in an amount equal to six (6) times the amount of the monthly payment involved."~~

Section 36. Section 71-710, R.C.M., 1947, is amended to read as follows:

"71-710. Child rehabilitation. The state department shall:

~~(4)(1) Enforce~~ enforce all laws pertaining to children and take the initiative in all matters involving the interest of illegitimate, dependent, neglected, and delinquent children where adequate provision therefor has not been made by law; and ~~to~~

~~(2)~~ use funds available for cases where special medical or material assistance is necessary to rehabilitate subnormal or physically handicapped children and where it is not otherwise provided for by law; and ~~co-operate~~

~~(3)~~ cooperate for the purposes hereof with all reputable ~~child helping~~ child helping and ~~child placing~~ child placing agencies; and

~~(4)(4)~~ inspect ~~inspect~~, license, and supervise public and private infants' homes, and ~~child caring~~ child caring

and ~~child placing~~ child placing institutions and agencies."

Section 37. Section 71-901, R.C.M. 1947, is amended to read as follows:

"71-901. ~~Receipt of funds~~ State treasurer to receive funds. The treasurer of the state of Montana is hereby designated as the appropriate fiscal officer of the state to receive federal funds. All money for public assistance purposes appropriated by the legislature ~~for public welfare purposes~~, all money received from the United States government ~~for public welfare purposes~~, and all money or received from any other source ~~for the purposes set forth in the Public Welfare Act~~ shall be paid into the state treasury to the credit of the state department."

Section 38. Section 71-1401, R.C.M. 1947, is amended to read as follows:

"71-1401. Definitions. As used in this act the following definitions apply:

(1) "Vocational rehabilitation" and "vocational rehabilitation services" mean any services, provided directly or through public or private instrumentalities, found by the state department ~~of social and rehabilitation services~~ to be necessary to compensate a blind individual for his employment handicap, and to enable him to engage in a remunerative occupation including, but not limited to, medical and vocational diagnosis, vocational guidance,

1 counseling and placement, rehabilitation training, physical
2 restoration, transportation, occupational and business
3 licenses, tools, equipment, initial stocks and supplies,
4 including livestock, capital advances, maintenance, and
5 training books and materials.

6 (2) "Rehabilitation services" means any services,
7 provided directly or through public or private
8 instrumentalities, found by the state department of social
9 and rehabilitation services to be necessary to compensate a
10 blind individual for his employment handicap or to enable
11 him to achieve the maximum degree of self-care and to engage
12 in productive tasks.

13 (3) "Rehabilitation training" means all necessary
14 training provided to a blind individual to compensate for
15 his employment handicap, including, but not limited to,
16 manual, preconditioning prevocational, and supplementary
17 training and training provided for the purpose of achieving
18 broader or more remunerative skills and capacities.

19 (4) "Physical restoration" means any medical,
20 surgical, or therapeutic treatment necessary to correct or
21 substantially reduce a blind individual's employment
22 handicap within a reasonable length of time, including, but
23 not limited to, medical, psychiatric, dental, and surgical
24 treatment, nursing services, hospital care, convalescent
25 home care, drugs, medical and surgical supplies, and

1 prosthetic appliances, but excluding curative treatment for
2 acute or transitory conditions.

3 (5) "Prosthetic appliance" means an artificial device
4 necessary to support or take the place of a part of the body
5 or to increase the acuity of a sense organ.

6 (6) "Occupational licenses" means a license, permit,
7 or other written authority required by any governmental unit
8 to be obtained in order to engage in an occupation.

9 (7) "Business licenses" means any license, permit, or
10 other written authority required by any governmental unit to
11 be obtained in order to engage in a business.

12 (8) "Maintenance" means money payments not exceeding
13 the estimated cost of subsistence during the provision of
14 vocational rehabilitation and rehabilitation services.

15 (9) "Blind individual" means an individual whose
16 central visual acuity does not exceed 20/200 in the better
17 eye with correcting lenses, or whose visual acuity is
18 greater than 20/200 but is accompanied by a limitation in
19 the fields of vision such that the widest diameter of the
20 visual field subtends an angle no greater than 20 degrees,
21 or who has other eye conditions which render vision equally
22 defective, or who has an eye condition which will cause
23 blindness."

24 Section 39. Section 71-1516, R.C.M. 1947, is amended
25 to read as follows:

1 "71-1516. Eligibility requirements ~~for medical~~
2 ~~assistance~~. Medical assistance shall be granted in behalf of
3 all persons;

4 (1) who reside in the state of Montana, including
5 residents temporarily absent from the state; and

6 (2) who meet any of the following requirements:

7 ~~(1)(a) who receive all or part of their income from~~
8 ~~the federally-aided federally-aided public assistance~~
9 ~~programs: old-age assistance, aid to the blind, aid to~~
10 ~~dependent children, and aid to the permanently and totally~~
11 ~~disabled;~~

12 ~~(2)(b) All persons, who upon application, would be~~
13 ~~eligible for financial assistance under any one of the~~
14 ~~federally-aided federally-aided programs referred to above;~~

15 ~~(3)(c) All persons who would be entitled to financial~~
16 ~~assistance under one of the federally-aided federally-aided~~
17 ~~categories except that they do not meet the durational~~
18 ~~residence, requirements or relative responsibility~~
19 ~~requirements of any of the public assistance programs above~~
20 ~~enumerated;~~

21 ~~(4)(d) Persons are in medical institutions who, and if~~
22 ~~they were no longer in such institution, would be eligible~~
23 ~~for financial assistance under one of the above programs;~~

24 ~~(5)(e) All children are under twenty-one who 21 years~~
25 ~~of age and meet the conditions of eligibility in the state's~~

1 plan for aid to dependent children, other than with respect
2 to school attendance;

3 ~~(6)(f) All children are under twenty-one who are 21~~
4 ~~years of age and in foster care under the supervision of the~~
5 ~~state;~~

6 ~~(7)(g) All persons whose have income is less than one~~
7 ~~hundred thirty-three and one-third per cent (133 1/3%) of~~
8 ~~the amounts specified as maximum income levels for federally~~
9 ~~aided federally-aided categories of assistance;~~

10 ~~(8)(h) All medically needy children are under~~
11 ~~twenty-one (21) years of age and medically needy, as defined~~
12 ~~by the state department of social and rehabilitation~~
13 ~~services; or~~

14 ~~(9)(i) All children are under twenty-one (21) years of~~
15 ~~age, who were in foster care under the supervision of the~~
16 ~~state, and who have been adopted as "hard-to-place"~~
17 ~~children."~~

18 Section 40. Section 71-1903, R.C.M. 1947, is amended
19 to read as follows:

20 "71-1903. Application for protective services —
21 ~~contents department as guardian or trustee decision as to~~
22 ~~eligibility.~~ (1) Protective services may be provided on a
23 voluntary basis for any developmentally disabled person who
24 requests them for himself or at the request of any
25 interested person, when the department determines that such

1 person is a developmentally disabled person who would
 2 benefit from services provided in this act, and that the
 3 department is currently able to supply services to such
 4 person. A parent may name the department as guardian of the
 5 ~~mentally developmentally~~ disabled person in his will. A
 6 parent may also name the department as guardian or trustee
 7 of the ~~mentally developmentally~~ disabled person, to assume
 8 such duties during the ~~parents~~ parents' lifetime. Voluntary
 9 services may be discontinued upon the written request of the
 10 ward or any personal representative of the ward.

11 (2) Application for protective services under this act
 12 shall be made to the designated field staff of the
 13 department or other designated state agency in the county in
 14 which the applicant resides, and the application shall be
 15 transmitted promptly to the department. Such application
 16 shall be in writing or reduced to writing in the manner and
 17 upon the form prescribed by the department and shall contain
 18 the name, age, and residence of the applicant and such other
 19 information as may be required by the rules ~~and regulations~~
 20 of the department. The rules ~~and regulations~~ of the
 21 department shall simplify the application process in order
 22 that protective services may be furnished as soon as
 23 possible. Adequate safeguards shall be established by the
 24 department to insure that only eligible persons receive
 25 protective services under this act. The department shall

1 notify the applicant and the designated field staff of the
 2 department or other designated state agency in writing of
 3 its decision concerning eligibility for protective
 4 services."

5 Section 41. Section 71-2304, R.C.M. 1947, is amended
 6 to read as follows:

7 "71-2304. Definitions. As used in this act the
 8 following definitions apply:

9 (1) "Department" means the department of social and
 10 rehabilitation services.

11 (2) "Adult foster family care homes" means private
 12 homes owned by one or more persons ~~over the age of eighteen~~
 13 ~~(18) years of age or older~~ which offer light personal care
 14 or custodial care to aged persons or disabled adults who are
 15 not related to the owner by blood or marriage.

16 (3) "Aged person" means a person defined by the
 17 department as aged.

18 (4) "Disabled adult" means a person ~~over the age of~~
 19 ~~eighteen (18) years of age or older~~ defined by the
 20 department as disabled.

21 (5) "Light personal care" means assisting the aged
 22 person or disabled adult in accomplishing such personal
 23 hygiene tasks as bathing, dressing, hair grooming, and
 24 supervision of prescriptive medicine administration but not
 25 administration of prescriptive medications.

3
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(6) "Custodial care" means providing a sheltered ~~family-type~~ family-type setting for an aged person or disabled adult so as to provide for ~~their~~ his basic needs of food, ~~and~~ shelter and having a specific person available to help ~~them~~ him meet ~~their~~ his basic needs.

(7) "Skilled nursing care" means ~~twenty-four (24) hour~~ 24-hour care supervised by a registered nurse or a licensed practical nurse under orders of an attending physician."

Section 42. Section 71-2404, R.C.M. 1947, is amended to read as follows:

"71-2404. ~~Rules and regulations~~ Department to adopt rules. The department shall control developmental disabilities programs which receive any state assistance by adopting rules, for providing developmental disabilities facilities and services. It shall set minimum standards for programs, ~~and~~ establish appropriate qualifications, ~~and~~ compensation scales, and personnel policies for persons employed in such programs. All developmental disabilities facilities and services shall comply with existing federal guidelines and with requirements which will enable the services and facilities to qualify for available aid funds. However, nothing herein ~~shall imply the necessity for~~ requires facilities serving the developmentally disabled to meet the same or equal standards as licensed medical facilities, unless the developmental disabilities facility

is providing professional or skilled medical care."

Section 43. Section 71-2405, R.C.M. 1947, is amended to read as follows:

"71-2405. Community services. (1) The department may establish and administer community comprehensive services, programs, clinics, or other facilities throughout the state for the purpose of aiding in the prevention, diagnosis, amelioration, or treatment of developmental disabilities. Programs, clinics, or other services may be provided directly by state agencies, ~~or~~ indirectly through contract or ~~co-operative~~ cooperative arrangements with other agencies of government, regional or local, private or public agencies, ~~or~~ private professional persons, or in accredited health or ~~long-term~~ long-term care facilities.

(2) Comprehensive services, programs, clinics, or other facilities established or provided by the department under this chapter shall conform, as nearly as possible, to the plans of the advisory council created under 71-2406, and the regional councils provided for in 71-2407."

Section 44. Section 80-1405, R.C.M. 1947, is amended to read as follows:

"80-1405. Powers and duties of department. The department shall:

(1) ~~adopt~~ adopt rules for the admission, custody, transfer, and release of residents of institutions except as

1 otherwise provided by law; ~~However~~ however, no such rules
2 ~~shall~~ may amend or alter the statutory powers and duties of
3 the state board of pardons;

4 (2) ~~Subject~~ subject to the functions of the department
5 of administration, lease or purchase lands for use by
6 institutions, and classify those lands to determine which
7 are of such character as to be most profitably used for
8 agricultural purposes, taking into consideration the needs
9 of all institutions for the food products that can be grown
10 or produced on the lands, and the relative value of
11 agricultural programs in the treatment or rehabilitation of
12 the persons confined in the institutions;

13 (3) ~~Utilize~~ utilize the staff and services of other
14 state agencies and units of the ~~university of~~ Montana
15 university system, within their respective statutory
16 functions, to carry out ~~the purposes of this act.~~ its
17 functions under this title:

18 (4) ~~Propose~~ propose programs to the ~~legislative~~
19 ~~assembly~~ legislature to meet the projected long-range needs
20 of institutions, including programs and facilities for the
21 diagnosis, treatment, care, and aftercare of persons placed
22 in institutions; and

23 (5) ~~Encourage~~ encourage the establishment of programs
24 at the local level for the prevention and rehabilitation of
25 physical and mental disability."

1 Section 45. Section 80-1410, R.C.M. 1947, is amended
2 to read as follows:

3 "80-1410. Establishment of juvenile correctional
4 facilities. The department, within the annual or ~~biannual~~
5 biennial budgetary appropriation, may establish, maintain,
6 and operate facilities to properly diagnose, care for,
7 train, educate, and rehabilitate children in need of these
8 services. The children must be ~~ten~~ (10) years of age or
9 older and under ~~twenty-one~~ (21) years of age. The facilities
10 include but are not limited to the Mountain View school, the
11 Pine Hills school, and the youth forest camp."

12 Section 46. Section 80-1413, R.C.M. 1947, is amended
13 to read as follows:

14 "80-1413. Participation by ~~governing boards~~
15 institutions in research programs. The department may direct
16 a penal, and corrective, or ~~custodial~~ institution of the
17 state to participate in and ~~co-operate~~ cooperate with
18 programs of research and development being conducted and
19 carried on by any units of the Montana university system, by
20 any of the other educational institutions of the state of
21 Montana, or by any foundation or agency thereof, in the
22 fields of science, health, education, and natural resources.
23 These programs may include the voluntary participation of
24 the inmates of the institution in testing and experimental
25 work conducted as a part thereof. Any funds received from

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the authorized programs may be shared with the participating inmates or otherwise held and used for the welfare and rehabilitation thereof, and shall may not become a part of the regular budgeted operation of the institution."

Section 47. Section 80-1603, R.C.M. 1947, is amended to read as follows:

~~"80-1603. Monthly assessment of charges annual computation of rate investigation claim of state review deposit of receipts Computation of per diem rate, monthly assessment, and disposition of receipts.~~

(1) The department shall assess monthly against each resident or responsible person, the full per diem charge, a proportionate share of the per diem charge, or no per diem charge, plus full ancillary charge, a proportionate share of the ancillary charge, or no ancillary charge, based upon financial information given to the department during its investigation. The per diem shall be computed on July 1 of each year by the department.

(2) An assessment made by the department under this section shall be based on the resident's or responsible person's ability to pay. The department shall may not make an assessment which would place an undue financial burden on the resident or the responsible person.

(3) For the purpose of these investigations, every agency of the state is required to render all reasonable

assistance to the department in obtaining all information necessary for the proper implementation of the purposes of this investigation. A representative of the department, ~~and~~ authorized by the director, may administer oaths, take testimony, and subpoena and compel the attendance of witnesses and the production of books, papers, records, and documents in connection with the duty of securing payments for support as provided by this act. A person who fails to obey the subpoena, upon petition of the department, to any judge of the district court of the state, may be ordered by the judge to appear and show cause for his disobedience of the subpoena. The judge, after the hearing, may order that the subpoena be obeyed, or, if it is made to appear to the judge that the subpoena was for any reason inappropriately issued, may dismiss the petition. A person who fails to obey the subpoena when ordered to do so by the judge may be punished for contempt of court on application of the district court by the department.

(4) The state has a claim against the estate of a patient and against the estate of a responsible person, for an amount due to the state at the date of death of the resident or the responsible person. The claim against the estate of a responsible person does not have priority against the estate for the amount necessary to rear and educate surviving children of the responsible person.

(5) The attorney general shall collect any claim which the state may have against such estate. This claim may not be enforced against any real estate while it is occupied as a home by the surviving spouse ~~or~~ of the resident or responsible person.

(6) If a resident or responsible person disagrees with the determination of the department as to the ability of the resident or responsible person to pay any part of the per diem or ancillary charge, an appeal may be filed within ~~thirty (30)~~ days of the determination with the board of institutions. If the resident disagrees with the determination of the appeal by the board ~~of institutions~~, an appeal may be filed in any court of record in Montana having jurisdiction of the resident or responsible person liable for the payment.

(7) The department may, at any time, review and change a determination for per diem or ancillary charge payments. In any case, however, a resident of an institution may not be released by reason of the nonpayment of the per diem or the ancillary charge, if, in the judgment of the superintendent of the institution at which he is a resident, this release is medically inadvisable.

(8) A per diem payment received by the department shall be deposited in the state treasury to the credit of the general fund."

Section 48. Section 80-1912, R.C.M. 1947, is amended to read as follows:

"80-1912. Expense of trial for escape offenses committed in prison. Whenever a trial takes place of any person under any of the provisions of ~~section~~ 94-7-306, and whenever a prisoner in the state prison ~~shall be~~ is tried for any crime committed therein, the county clerk of the county where such trial is ~~had held~~ shall make out a statement of all the costs incurred by the county for the trial of such case, and of guarding and keeping such prisoner, properly certified by a district judge of said county, which statement shall be sent to the ~~board of state prison commissioners~~ department of institutions for their its approval; and after such approval, ~~said board the department~~ must cause the amount of such costs to be paid out of the money appropriated for the support of the state prison to the county treasurer of the county where such trial was ~~had held~~."

Section 49. Section 80-2412, R.C.M. 1947, is amended to read as follows:

"80-2412. Interstate compact on mental health enacted ~~text. The interstate compact on mental health~~ Interstate Compact on Mental Health as contained herein is hereby enacted into law and entered into by this state with all other jurisdiction legally joining therein in the form

substantially as follows:

The contracting states solemnly agree, that:

Article I

~~Article I.~~ The party states find that the proper and expeditious treatment of the mentally ill and mentally deficient can be facilitated by ~~co-operative~~ cooperative action, to the benefit of the patients, their families, and society as a whole. Further, the party states find that the necessity of and desirability for furnishing such care and treatment bears no primary relation to the residence or citizenship of the patient but that, on the contrary, the controlling factors of community safety and humanitarianism require that facilities and services be made available for all who are in need of them. Consequently, it is the purpose of this compact and of the party states to provide the necessary legal basis for the institutionalization or other appropriate care and treatment of the mentally ill and mentally deficient under a system that recognizes the paramount importance of patient welfare and to establish the responsibilities of the party states in terms of such welfare.

Article II

~~Article II.~~ As used in this compact:

~~(a)(1)~~ "Sending sending state" shall ~~mean~~ means a party state from which a patient is transported pursuant to

the provisions of the compact or from which it is contemplated that a patient may be so sent-;

~~(b)(2)~~ "Receiving receiving state" shall ~~mean~~ means a party state to which a patient is transported pursuant to the provisions of the compact or to which it is contemplated that a patient may be so sent-;

~~(c)(3)~~ "Institution institution" shall ~~mean~~ means any hospital or other facility maintained by a party state or political subdivision thereof for the care and treatment of mental illness or mental deficiency-;

~~(d)(4)~~ "Patient patient" shall ~~mean~~ means any person subject to or eligible, as determined by the laws of the sending state, for institutionalization or other care, treatment, or supervision pursuant to the provisions of this compact-;

~~(e)(5)~~ "Aftercare aftercare" shall ~~mean~~ means care, treatment, and services provided a patient, as defined herein, on convalescent status or conditional release-;

~~(f)(6)~~ "Mental mental illness" shall ~~mean~~ means mental disease to such extent that a person so afflicted requires care and treatment for his own welfare, ~~or~~ the welfare of others, or of the community-;

~~(g)(7)~~ "Mental mental deficiency" shall ~~mean~~ means mental deficiency as defined by appropriate clinical authorities to such extent that a person so afflicted is

incapable of managing himself and his affairs, but shall not include mental illness as defined herein, ~~and~~

~~(b)(8)~~ "State state" shall ~~mean~~ means any state, territory, or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

Article III

~~Article III.~~ ~~(a)(1)~~ Whenever a person physically present in any party state shall be in need of institutionalization by reason of mental illness or mental deficiency, he shall be eligible for care and treatment in an institution in that state irrespective of his residence, settlement, or citizenship qualifications.

~~(b)(2)~~ The provisions of ~~paragraph (a) subsection (1)~~ of this article to the contrary notwithstanding, any patient may be transferred to an institution in another state whenever there are factors based upon clinical determinations indicating that the care and treatment of said patient would be facilitated or improved thereby. Any such institutionalization may be for the entire period of care and treatment or for any portion or portions thereof. The factors referred to in this ~~paragraph subsection~~ shall include the patient's full record with due regard for the location of the patient's family, character of the illness and probable duration thereof, and such other factors as shall be considered appropriate.

~~(a)(3)~~ No state shall be obliged to receive any patient pursuant to the provisions of ~~paragraph (b) subsection (2)~~ of this article unless the sending state has ~~given~~ gives advance notice of its intention to send the patient, ~~furnished~~ furnishes all available medical and other pertinent records concerning the patient, ~~given~~ gives the qualified medical or other appropriate clinical authorities of the receiving state an opportunity to examine the patient if said authorities so wish, ~~and~~ unless the receiving state ~~shall agree~~ agrees to accept the patient.

~~(a)(4)~~ In the event that the laws of the receiving state establish a system of priorities for the admission of patients, an interstate patient under this compact shall receive the same priority as a local patient and shall be taken in the same order and at the same time that he would be taken if he were a local patient.

~~(a)(5)~~ Pursuant to this compact, the determination as to the suitable place of institutionalization for a patient may be reviewed at any time and such further transfer of the patient may be made as seems likely to be in the best interest of the patient.

Article IV

~~Article IV.~~ ~~(a)(1)~~ Whenever, pursuant to the laws of the state in which a patient is physically present, it shall be determined that the patient should receive aftercare or

38

1 supervision, such care or supervision may be provided in a
 2 receiving state. If the medical or other appropriate
 3 clinical authorities having responsibility for the care and
 4 treatment of the patient in the sending state shall have
 5 reason to believe that aftercare in another state would be
 6 in the best interest of the patient and would not jeopardize
 7 the public safety, they shall request the appropriate
 8 authorities in the receiving state to investigate the
 9 desirability of affording the patient such aftercare in said
 10 receiving state, and such investigation shall be made with
 11 all reasonable speed. The request for investigation shall
 12 be accompanied by complete information concerning the
 13 patient's intended place of residence and the identity of
 14 the person in whose charge it is proposed to place the
 15 patient, the complete medical history of the patient, and
 16 such other documents as may be pertinent.

17 ~~(b)~~(2) If the medical or other appropriate clinical
 18 authorities having responsibility for the care and treatment
 19 of the patient in the sending state and the appropriate
 20 authorities in the receiving state find that the best
 21 interest of the patient would be served thereby, and if the
 22 public safety would not be jeopardized thereby, the patient
 23 may receive aftercare or supervision in the receiving state.

24 ~~(c)~~(3) In supervising, treating, or caring for a
 25 patient on aftercare pursuant to the terms of this article,

1 a receiving state shall employ the same standards of
 2 visitation, examination, care, and treatment that it
 3 employs for similar local patients.

4 Article V

5 ~~Article V.~~ Whenever a dangerous or potentially
 6 dangerous patient escapes from an institution in any party
 7 state, that state shall promptly notify all appropriate
 8 authorities within and without the jurisdiction of the
 9 escapee in a manner reasonably calculated to facilitate the
 10 speedy apprehension of the escapee. Immediately upon the
 11 apprehension and identification of any such dangerous or
 12 potentially dangerous patient, he shall be detained in the
 13 state where found pending disposition in accordance with
 14 law.

15 Article VI

16 ~~Article VI.~~ The duly accredited officers of any state
 17 party to this compact, upon the establishment of their
 18 authority and the identity of the patient, shall be
 19 permitted to transport any patient being moved pursuant to
 20 this compact through any and all states party to this
 21 compact, without interference.

22 Article VII

23 ~~Article VII.~~ ~~(a)~~ (1) No person shall be deemed a patient
 24 of more than one ~~(4)~~ institution at any given time.
 25 Completion of transfer of any patient to an institution in a

receiving state shall have the effect of making the person a patient of the institution in the receiving state.

~~(b)~~ (2) The sending state shall pay all costs of and incidental to the transportation of any patient pursuant to this compact, but any two ~~(2)~~ or more party states may, by making a specific arrangement for that purpose, arrange for a different allocation of costs as among themselves.

~~(c)~~ (3) No provision of this compact shall be construed to alter or affect any internal relationships among the departments, agencies, and officers of and in the government of a party state, or between a party state and its subdivisions, as to the payment of costs, or responsibilities therefor.

~~(d)~~ (4) Nothing in this compact shall be construed to prevent any party state or subdivision thereof from asserting any right against any person, agency, or other entity in regard to costs for which such party state or subdivision thereof may be responsible pursuant to any provision of this compact.

~~(e)~~ (5) Nothing in this compact shall be construed to invalidate any reciprocal agreement between a party state and a nonparty state relating to institutionalization, care, or treatment of the mentally ill or mentally deficient, or any statutory authority pursuant to which such agreements may be made.

Article VIII

~~Article VIII. (a)~~ (1) Nothing in this compact shall be construed to abridge, diminish, or in any way impair the rights, duties, and responsibilities of any patient's guardian on his own behalf or in respect of any patient for whom he may serve, except that, where the transfer of any patient to another jurisdiction makes advisable the appointment of a supplemental or substitute guardian, any court of competent jurisdiction in the receiving state may make such supplemental or substitute appointment and the court which appointed the previous guardian shall, upon being duly advised of the new appointment, and upon the satisfactory completion of such accounting and other acts as such court may by law require, relieve the previous guardian of power and responsibility to whatever extent shall be appropriate in the circumstances, ~~provided, however, that~~ ~~in~~ in the case of any patient having settlement in the sending state, the court of competent jurisdiction in the sending state shall have the sole discretion to relieve a guardian appointed by it or continue his power and responsibility, whichever it shall deem advisable. The court in the receiving state may, in its discretion, confirm or reappoint the person or persons previously serving as guardian in the sending state in lieu of making a supplemental or substitute appointment.

~~(b)(2)~~ The term "guardian" as used in ~~paragraph (a)~~ subsection (1) of this article shall include any guardian, trustee, legal committee, conservator, or other person or agency however denominated who is charged by law with power to act for or responsibility for the person or property of a patient.

Article II

~~Article II, (a)(1)~~ No provisions of this compact except Article V shall apply to any person institutionalized while under sentence in a penal or correctional institution or while subject to trial on a criminal charge, or whose institutionalization is due to the commission of an offense for which, in the absence of mental illness or mental deficiency, said person would be subject to incarceration in a penal or correctional institution.

~~(b)(2)~~ To every extent possible, it shall be the policy of states party to this compact that no patient shall be placed or detained in any prison, jail, or lockup, but such patient shall, with all expedition, be taken to a suitable institutional facility for mental illness or mental deficiency.

Article I

~~Article I, (a)(1)~~ Each party state shall appoint a "compact administrator" who, on behalf of his state, shall act as general ~~co-ordinator~~ coordinator of activities under

the compact in his state and who shall receive copies of all reports, correspondence, and other documents relating to any patient processed under the compact by his state either in the capacity of a sending or receiving state. The compact administrator or his duly designated representative shall be the official with whom other party states shall deal in any matter relating to the compact or any patient processed thereunder.

~~(b)(2)~~ The compact administrators of the respective party states shall have power to promulgate reasonable rules ~~and regulations~~ to carry out more effectively the terms and provisions of this compact.

Article XI

~~Article XI~~ The duly constituted administrative authorities of any two ~~(2)~~ or more party states may enter into supplementary agreements for the provision of any service or facility or for the maintenance of any institution on a joint or ~~co-operative~~ cooperative basis whenever the states concerned ~~shall~~ find that such agreements will improve services, facilities, or institutional care and treatment in the fields of mental illness or mental deficiency. No such supplementary agreement shall be construed so as to relieve any party state of any obligation which it otherwise would have under other provisions of this compact.

Article XIII

~~Article XII.~~ This compact shall enter into full force and effect as to any state when enacted by it into law, and such state shall thereafter be a party thereto with any and all states legally joining therein.

Article XIII

~~Article XIII. (4) (1)~~ A state party to this compact may withdraw therefrom by enacting a statute repealing the same. Such withdrawal shall take effect ~~one (1)~~ year after notice thereof has been communicated officially and in writing to the governors and compact administrators of all other party states. However, the withdrawal of any state shall not change the status of any patient who has been sent to said state or sent out of said state pursuant to the provisions of the compact.

~~(b) (2)~~ Withdrawal from any agreement permitted by Article VII ~~(b) (2)~~ as to costs or from any supplementary agreement made pursuant to Article XI shall be in accordance with the terms of such agreement.

Article XIV

~~Article XIV. (1)~~ This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any party

state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

(2) The director of the department of institutions, hereafter called "the director," shall be the compact administrator and shall have the power to make any rules and regulations necessary for the administration of this article. The director shall ~~co-operate~~ cooperate with all departments, agencies, and officers of the state and any political subdivision thereof to facilitate the proper administration of the ~~interstate compact on mental health~~ Interstate Compact on Mental Health or of any supplementary agreement or agreements entered into by this state thereunder.

(3) The director may enter into supplementary agreements with appropriate officials of other states pursuant to Articles VII and XI of the compact.

(4) The department of institutions in its annual budget shall include such amounts necessary to discharge the

42

1 financial obligations incurred by it to carry out the
2 purposes of the ~~interstate compact on mental health~~
3 Interstate Compact on Mental Health, and the general
4 assembly shall appropriate such sums necessary therefor.

5 (5) The compact administrator is hereby directed to
6 consult with the immediate family of any proposed transferee
7 and, in the case of a proposed transferee from an
8 institution in this state to an institution in another party
9 state, to make no transfer out of the state without approval
10 of the district or probate court. Before granting such
11 approval the court shall hold such hearings as it ~~deems~~
12 considers appropriate. In addition, the court shall
13 designate some appropriate person to deliver written notice
14 of the proposed transferee's right to a hearing to the
15 proposed transferee and his guardian ad litem. The person
16 serving such notices shall make a written return to the
17 court that such has been done. At the conclusion of such
18 hearing, if any, the court may approve the proposed
19 transfer, order the release of the proposed transferee, or
20 enter any other suitable order.

21 (6) Duly authenticated copies of the article shall,
22 upon its approval, be transmitted by the secretary of state
23 to the governor of each state, the attorney general, and the
24 secretary of state of the United States, and the Council of
25 State Governments."

1 Section 50. Section 80-2701, R.C.M. 1947, is amended
2 to read as follows:

3 "80-2701. ~~Purpose and intent of act — policy of state~~
4 Legislative purpose. It is the purpose of this act and the
5 policy of this state to recognize ~~alcohol~~ alcoholism and
6 drug dependence as problems affecting the health, safety,
7 morals, economy, and general welfare of this state; to
8 recognize ~~alcohol~~ alcoholism and drug dependence as problems
9 subject to treatment; and to recognize the sufferer of
10 ~~alcohol~~ alcoholism, drug dependence, or both, as worthy of
11 treatment and rehabilitation. It is the intent of this act
12 to establish means whereby the appropriate resources of this
13 state may be focused fully and effectively upon the problems
14 of ~~alcohol~~ alcoholism and drug dependence and utilized in
15 implementing programs for the control and treatment of these
16 problems."

17 Section 51. Section 80-2702, R.C.M. 1947, is amended
18 to read as follows:

19 "80-2702. Duties of department — department
20 authorized to accept gifts — enter into contracts —
21 acquire and dispose of property. (1) The department of
22 institutions, hereafter referred to as department in this
23 chapter, shall:

24 (a) ~~Plan~~ plan, promote, and assist in the support of
25 ~~alcohol~~ alcoholism and drug dependence prevention,

1 treatment, and control programs;

2 (b) ~~Conduct~~ conduct, sponsor, and support research,
3 investigations, and studies, including evaluation, of all
4 phases of ~~alcohol~~ alcoholism and drug dependence;

5 (c) ~~Assist~~ assist the development of educational and
6 training programs relative to ~~alcohol~~ alcoholism and drug
7 dependence, and carry on programs to assist the public, and
8 technical and professional groups, in becoming fully
9 informed about ~~alcohol~~ alcoholism and drug dependence;

10 (d) ~~Promote~~ promote, develop, and assist, financially
11 and otherwise, ~~alcohol~~ alcoholism and drug dependence
12 programs administered by other state agencies, local
13 government agencies, and private nonprofit organizations and
14 agencies; and

15 (e) ~~Encourage~~ encourage and promote effective use of
16 facilities, resources, and funds in the planning and conduct
17 of programs and activities for prevention, treatment, and
18 control of ~~alcohol~~ alcoholism and drug dependence and, in
19 this respect, cooperate with and utilize to the maximum
20 possible extent the resources and services of federal,
21 state, and local agencies.

22 (2) To carry out this act, the department may:

23 (a) ~~Accept~~ accept gifts, grants, and donations of
24 money and property from public and private sources;

25 (b) ~~Enter~~ enter into contracts; and

1 (c) ~~Acquire~~ acquire and dispose of property."

2 Section 52. Section 80-2717, R.C.S. 1947, is amended
3 to read as follows:

4 "80-2717. Emergency commitment of intoxicated persons.

5 (1) An intoxicated person who ~~(4)~~ has threatened, attempted,
6 or inflicted physical harm on another and is likely to
7 inflict physical harm on another unless committed, or ~~(4)~~
8 who is incapacitated by alcohol, may be committed to an
9 approved public treatment facility for emergency treatment.
10 A refusal to undergo treatment does not constitute evidence
11 of lack of judgment as to the need for treatment.

12 (2) The certifying physician, spouse, guardian, or
13 relative of the person to be committed, or any other
14 responsible person, may make a written application for
15 commitment under this section, directed to the administrator
16 of the approved public treatment facility. The application
17 shall state facts to support the need for emergency
18 treatment and be accompanied by a physician's certificate
19 stating that he has examined the person sought to be
20 committed within ~~two~~ (2) days before the certificate's date
21 and facts supporting the need for emergency treatment. A
22 physician employed by the admitting facility or the
23 department is not eligible to be the certifying physician.

24 (3) Upon approval of the application by the
25 administrator of the approved public treatment facility, the

1 person shall be brought to the facility by a peace officer,
2 health officer, the applicant for commitment, the patient's
3 spouse, the patient's guardian, or any other interested
4 person. The person shall be ~~retained~~ detained at the
5 facility to which he was admitted, or transferred to another
6 appropriate public or private treatment facility, until
7 discharged under subsection (5).

8 (4) The administrator of an approved public treatment
9 facility shall refuse an application if in his opinion the
10 application and certificate fail to sustain the grounds for
11 commitment.

12 (5) When on the advice of the medical staff the
13 administrator determines that the grounds for commitment no
14 longer exist, he shall discharge a person committed under
15 this section. No person committed under this section may be
16 detained in any treatment facility for more than ~~five~~ (5)
17 days. If a petition for involuntary commitment under ~~section~~
18 69-6221 has been filed within the ~~five~~ (5) days and the
19 administrator in charge of an approved public treatment
20 facility finds that grounds for emergency commitment still
21 exist, he may detain the person until the petition has been
22 heard and determined, but no longer than ~~ten~~ (10) days after
23 filing the petition.

24 (6) A copy of the written application for commitment
25 and of the physician's certificate, and a written

1 explanation of the person's right to counsel, shall be given
2 to the person within ~~twenty-four~~ (24) hours after commitment
3 by the department, ~~who~~. The department shall provide a
4 reasonable opportunity for the person to consult counsel."

5 Section 53. Section 80-2802, R.C.M. 1947, is amended
6 to read as follows:

7 "80-2802. Duties of department. The department shall:

8 (1) take cognizance of matters affecting the mental
9 health of the citizens of the state;

10 (2) initiate preventive mental health activities of
11 the statewide mental health programs, including, but not
12 limited to, the implementation of mental health care and
13 treatment, prevention, and research as can best be
14 accomplished by ~~community-centered~~ community-centered
15 services. Such means shall be utilized to initiate and
16 operate these services in cooperation with local agencies as
17 established under this act.

18 (3) make scientific and medical research
19 investigations relative to the incidence, cause, prevention,
20 treatment, and care of the mentally ill;

21 (4) collect and disseminate information relating to
22 mental health;

23 (5) prepare and maintain a comprehensive plan for the
24 development of public mental health services in the state.
25 The public mental health services shall include, but not be

1 limited to, community comprehensive mental health centers,
2 mental health clinics, traveling service units, and
3 consultative and educational services.

4 (6) provide by regulations for the examination of
5 persons, who apply for examination or who are admitted
6 either as inpatients or outpatients into Warm Springs state
7 hospital or other public mental health facilities;

8 (7) receive from agencies of the United States and
9 other state agencies, persons or groups of persons,
10 associations, firms, or corporations, grants of money,
11 receipts from fees, gifts, supplies, materials, and
12 contributions, for the development of mental health services
13 within the state;

14 (8) establish standards for public mental health
15 facilities; and

16 (9) evaluate performance of public mental health
17 facilities in compliance with federal and state standards."

18 Section 54. Repealer. Sections 71-101, 71-107, 71-118,
19 and 71-233.5, R.C.M. 1947, are repealed.

-End-

PUBLIC HEALTH, WELFARE & COMMITTEE
SAFETY
45th Legislature

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
HB 30	TO REVISE & CLARIFY THE LAWS RELATING TO VOCATIONAL REHABILITATION...	1/3/77	Bardanouve	1/11/77	DO PASS AS AMENDED	1/11/77
HB 52	TO PROVIDE IDENTIFICATION CARDS FOR ELDERLY PEOPLE.	1/3/77	Holmes	HEARD BY PROBLEMS OF THE ELDERLY SUBCOMM.	DO PASS AS AMENDED	2/22/77
HB 61	TO PROVIDE FREE TRANSPORTATION ON MUNICIPAL BUS LINES TO PERSONS 65 YRS. OF AGE AND OLDER.	1/3/77	Holmes	HEARD BY PROBLEMS OF THE ELDERLY SUBCOMM.	DO PASS AS AMENDED	2/22/77
HB 114	TO SHIFT CO. LIABILITY FOR PUB. ASSISTANCE GIVEN AS A RESULT OF RECIPIENT'S PARENT OR SPOUSE BEING INCARCERATED OR INVOLUNTARILY COMMITTED.	1/10/77	Brand	1/18/77	DO NOT PASS	2/22/77
HB 164	TO MAKE CONFIDENTIAL ALL INFORMATION OBTAINED FOR PURPOSES OF PUBLIC ASSISTANCE.	1/13/77	Harper	1/18/77	DO PASS AS AMENDED	1/18/77
HB 173	TO REPEAL ABORTION COUNSELORS AND COUNSELING SERVICES ACT.	1/14/77	Holmes	1/20/77	DO PASS	1/20/77

MAY 23 77

January 11, 1977

PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE PROCEEDINGS:

A meeting of the House Public Health, Welfare and Safety Committee was held on Tuesday, January 11, 1977 at 3:30 p.m. in Room 431 of the State Capitol. All members were present except Rep. Kimble, who was excused.

HOUSE BILL 30 was the only bill heard. The sponsor Rep. Bardanouve was unable to present the bill, so Mr. John Bobinski from Legislative Council explained it. What recodification is and what the bill does is referred to in the attached handout. This is not a recodification bill, but is only preparing for the 1979 legislative session, during which a complete recodification bill will be submitted. This bill is mainly a housekeeping bill, and is written pursuant to the Code Commissioner's mandate. There are no substantive changes in the bill; however Mr. Bobinski explained some of the more confusing changes in order to clarify as to their purposes. The green attachment to the bill goes through each amendment section by section.

During the bill's forming stages, a misunderstanding arose concerning sections 80-2701 and 80-2702. In a letter received from the Department of Institutions it was explained that there had been some confusion in that the Department had thought that section 80-2708 was being amended, and this would mean the loss of federal funding. Mr. Nick Roterling from the Dept. of Institutions spoke and explained his position as chief counsel. There is after all no substantive change to the act and the bill as it stands meets the Department's approval. One part of the bill, however, concerning section 38-210 of the R.C.M.'s, proposes to dress up the language of this act and the Department would rather just see the entire act repealed. If HOUSE BILL 30 were amended to do this, an additional bill would not be necessary.

There were no other proponents. There were no opponents. There were no questions. The committee then went into executive session.

The following amendments were proposed - see standing committee report. The motion to adopt all proposed amendments was made by Rep. Gould and seconded by Rep. Wyrick. Motion carried unanimously. Rep. Cooney then moved DO PASS AS AMENDED. Motion carried unanimously.

The meeting was then adjourned. The next meeting will be on Tuesday, January 18.

Wm Red Menahan
Chairman Red Menahan

Debbie Ophovac
Secretary

COMMITTEE ON PUBLIC HEALTH, WELFARE AND SAFETY

HOUSE BILL NO.	ENTERED COMM. 1977	DATE CONSIDERED 1977	OUT OF COMM. 1977	DO NOT DATE 1977	DO NOT PASS DATE 1977	DO PASS AS AMEND. DATE 1977	BE CON- CURRED IN DATE 1977	BE CONC. IN AS AMENDED DATE 1977	BE NOT CON- CURRED IN DATE 1977
30	Feb. 2	Feb. 24	Feb. 24				Feb. 24		
173	Jan. 29	Mar. 3	Mar. 3				Mar. 3		
174	(Mar. 9 Feb. 11)	Mar. 3	Mar. 10 Mar. 5		(Be Concurred In-3/5)		(Mar. 10--WITHOUT RECOMMENDATION) AMENDED		
176	Feb. 2	Mar. 5	Mar. 8				Mar. 8		
184	Feb. 17	Mar. 8	Mar. 8				Mar. 8		
219	Feb. 8 Mar. 10	Mar. 8	Mar. 8				Mar. 8 (AMENDED) Mar. 15		
227	Feb. 8	Mar. 10	Mar. 15				Mar. 15		
236	Feb. 8	Mar. 10	Mar. 17				Mar. 17 (AMENDED)		
✓ 286	Mar. 2	Mar. 29	Mar. 31				Mar. 31--WITHOUT RECOMMENDATION AMENDED		
✓ 294 298	April 6 Feb. 16	----- Mar. 10	Apr. 6 Mar. 28	(to Local Govt.)			Mar. 28--WITHOUT RECOMMENDATION AMENDED		
✓ 300	Mar. 5	Mar. 19	Mar. 19				Mar. 19		
307	Mar. 2	Mar. 22	Mar. 22				Mar. 22		
318	Feb. 17	Mar. 22	Mar. 22				Mar. 28		
✓ 330 338	Feb. 10 Mar. 21	Mar. 12 Mar. 26	Mar. 17 Mar. 28				Mar. 17 (AMENDED) Mar. 28		
✓ 360	Mar. 2	Mar. 19	Mar. 25				Mar. 25 (AMENDED)		
408	Feb. 17	Mar. 17	Mar. 17				Mar. 17		

(Use Separate Sheet for Senate, House Bills, and Resolutions)

MINUTES OF THE MEETING

PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE

February 24, 1977

The twentieth meeting of the Senate Public Health Committee was called to order by Chairman Stephens in Room 405 of the State Capitol Building on Thursday, February 24, 1977, at approximately 11:00 A.M.

ROLL CALL: All members of the Committee were present.

CONSIDERATION OF HOUSE BILL 30: Chairman Stephens turned the meeting over to John Bobinski, Legislative Council attorney, who drafted House Bill 30. Mr. Bobinski explained the bill, saying it is a re-codification bill and seeks mainly to clarify through the amendments. Instead of taking each change in the statute to explain, he picked out five instances and elaborated on the changes and reasoning behind those changes.

Questions from the Committee (there were no further witnesses) were few - Senator Hims1 questioned the change from 17 mills down to 13 1/2 and Senator Olson drew the Committee's attention to the inclusion of "epilepsy" under the term, "developmentally disabled". Mr. Bobinski mentioned that some of the problem with developmentally disabled comes from the federal guidelines, adding that he is sure there are some federal monies involved.

The hearing on HB30 was concluded.

CONSIDERATION OF HOUSE JOINT RESOLUTION 9: Representative Holmes presented her bill to the Committee, asking their support of HJR9 which would encourage use of smoke detectors in Montana buildings. Holmes gave the Committee some statistics on the numbers of people succumbing to smoke inhalation during fires in the homes during the past year, adding that 60 percent of these lives could have been saved if smoke detectors had been in use. Smoke detectors are even more effective than heat detectors. Representative Holmes said there is no need for a fiscal note on this bill.

Supporting the bill were the following:

1. Thomas Selleck, State Fire Marshal
2. Henry E. Lohr, Montana State Volunteer Fire Association.
3. Ed Johnston, Montana State
4. Jim Campbell, Department of Administration

Every person named above spoke very briefly concerning the need for smoke detectors. Mr. Campbell, speaking for his department, added that his Department was in support of the Resolution and would work to put forth an educational program, with the appropriate groups in the State. He said no additional FTEs would be needed if this Resolution be concurred in, since the Department had already requested additional help.

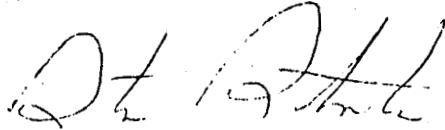
The hearing on HJR9 was concluded.

February 24, 1977

ACTION ON HOUSE JOINT RESOLUTION 9: Senator Roberts moved
HJR9 BE CONCURRED IN - motion carried unanimously.

ACTION ON HOUSE BILL 30: Senator Watt moved SB30 BE CONCURRED
IN - motion carried unanimously.

ADJOURNMENT: With no further business at this time, Chairman
Stephens adjourned the meeting at 11:40 A.M.



STAN STEPHENS

ROLL CALL

VOTE

SENATE COMMITTEE PUBLIC HEALTH, WELFARE AND SAFETY

45th LEGISLATIVE SESSION - 1977

Date 2/24 Bill No. HB 30 Time _____

NAME S:

YES

NO

	YES	NO
LEE, Robert	/	
RASMUSSEN, Tom	/	
OLSON, Stuart	/	
HIMSL, Matt	/	
WATT, Robert	/	
ROBERTS, Joe	/	
NORMAN, Bill - V. Chm.	/	
STEPHENS, Stan - Chairman	/	

Joyce (Kelly) Allen
Secretary

STAN STEPHENS
Chairman

Motion: SENATOR WATT MOVED HB30 BE CONCURRED IN

STANDING COMMITTEE REPORT

.....FEBRUARY 24..... 19 77.....

MR.PRESIDENT.....

We, your committee onPUBLIC HEALTH, WELFARE AND SAFETY.....

having had under considerationHOUSE BILL..... Bill No.30.....

Respectfully report as follows: ThatHOUSE BILL..... Bill No.30.....

HE CONCURRED IN

DO PASSE

SUPPORT,
OPPOSE OR
AMEND?

REPRESENTING:

ON BILL #

(Please leave any prepared statement with Secretary)

Thomas Sellen	STATE FIRE MARSHAL	HJR-9	Suggest
Henry E. Lohr.	Mont State Vol. Fire Assn	HJR-9	Support
Polly Holmes	Polly Holmes	HJR-9	"
Ed. Johnston	Montana State Univ	HJR. 9	"
John Bobinski	Legislative Council	HB 30	Answer questions

HOUSE BILL NO. 30

INTRODUCED BY BARDANOUVE

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO VOCATIONAL REHABILITATION, PUBLIC ASSISTANCE, STATE INSTITUTIONS, THE DEVELOPMENTALLY DISABLED, AND THE MENTALLY ILL; AMENDING SECTIONS 38-110, 38-120, ~~38-210~~, 38-506, 38-1202, 38-1205, 38-1206, 38-1208, 38-1222, 38-1302, 41-817, 71-113, 71-207, 71-210, 71-211, 71-212, 71-213, 71-214, 71-216, 71-217, 71-222, 71-226, 71-230, 71-233.1, 71-233.3, 71-302.2, 71-303, 71-305, 71-306, 71-307, 71-308, 71-311, 71-314, 71-501, 71-509, 71-710, 71-901, 71-1401, 71-1516, 71-1903, 71-2304, 71-2404, 71-2405, 80-1405, 80-1410, 80-1413, 80-1603, 80-1912, 80-2412, 80-2701, 80-2702, 80-2717, AND 80-2802, R.C.M. 1947; AND REPEALING SECTIONS 38-210, 71-101, 71-107, 71-118, AND 71-233.5, R.C.M. 1947."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 38-110, R.C.M. 1947, is amended to read as follows:

"38-110. Maintenance of indigent persons patients on discharge. Prior to the discharge of a patient from a mental health facility, the professional person in charge of the facility shall notify the welfare department of the county

from which the patient was committed. The county welfare department shall at once ascertain whether the discharged patient is in financial need. If the patient is found to be in financial need, the county welfare department shall properly care for and maintain the discharged patient under the laws of this state relating to public welfare assistance until the patient is able to care for himself or until another provision has been made for care of the patient."

Section 2. Section 38-120, R.C.M. 1947, is amended to read as follows:

"38-120. Receipt of nonresident insane person who is seriously mentally ill pending return to home state. An insane A person who is seriously mentally ill and not a resident of this state may be received into the state hospital for a period not to exceed thirty ~~(30)~~ days pending return to the state of his residence."

~~Section 3. Section 38-210, R.C.M. 1947, is amended to read as follows:~~

~~"38-210. Moneys Disposal of moneys of on person who is seriously mentally ill insane person disposal of. When a person is adjudged insane to be seriously mentally ill and ordered committed to the state hospital or is adjudged to be in such a condition of mind that he should be placed in the state hospital for observation, the money found on him at the time he is taken into custody must be certified to by~~

REFERENCE BILL

55

1 the--judge--and--sent--with--the--person--to--the--state--hospital
2 the--money--must--be--delivered--to--the--superintendent--of--the
3 state--hospital--whose--receipt--for--the--money--shall--be--taken
4 by--the--officer--or--other--person--delivering--him--the--patient--to
5 the--hospital--who--the--officer--must--file--the--receipt--with
6 the--clerk--of--the--district--court--of--the--county--in--which--the
7 proceedings--were--held--if--the--amount--exceeds--one--hundred
8 dollars--(\$100)--the--excess--must--be--applied--to--the--payment--of
9 the--expenses--of--the--person--while--in--the--hospital--if--the
10 amount--is--one--hundred--dollars--(\$100)--or--less--it--must--be
11 kept--and--delivered--to--the--person--when--discharged--or--released
12 from--the--hospital--or--applied--in--payment--of--general--expenses
13 if--the--person--dies--while--in--the--hospital--if--an--amount
14 remains--to--the--credit--of--a--person--paroled--discharged--or
15 released--or--after--payment--of--the--funeral--expenses--of--the
16 person--who--dies--while--in--the--hospital--and--the--amount
17 remains--unclaimed--for--one--(1)--year--after--the--parole--
18 discharge--release--or--death--fifty--per--cent--(50%)--of--the
19 amount--but--not--in--any--event--exceeding--fifty--dollars--(\$50)--
20 shall--be--withdrawn--from--the--account--and--placed--in--the--agency
21 fund--in--the--state--treasury--to--be--expended--for--indigent
22 patients--at--the--times--and--in--the--manner--and--for--such
23 purposes--as--may--be--prescribed--by--the--superintendent--of--the
24 hospital--A--balance--which--remains--to--the--credit--of--the
25 person--shall--be--transmitted--to--the--county--treasurer--of--the

1 county--from--which--the--person--was--sent--and--if--a--sum--remains
2 after--paying--the--costs--of--hearing--and--transportation--to--the
3 hospital--the--balance--shall--be--paid--into--the--state--treasury
4 to--the--credit--of--the--general--fund."

5 Section 3. Section 38-506, R.C.M. 1947, is amended to
6 read as follows:

7 "38-506. Support of patient conditionally released.
8 When a mental health facility conditionally releases a
9 patient committed to its care, it is not liable for his
10 support while conditionally released. Liability devolves
11 upon the legal guardian, parent, or person under whose care
12 the patient is placed when conditionally released, or upon
13 any other person legally liable for his support. The public
14 welfare officials of the county where the patient resides or
15 is found, are responsible for providing relief and care for
16 a conditionally released patient who is unable to maintain
17 himself, or who is unable to secure support from the person
18 under whose care he was placed on convalescent leave, like
19 any other person in need of relief and care, under the
20 public welfare assistance laws."

21 Section 4. Section 38-1202, R.C.M. 1947, is amended to
22 read as follows:

23 "38-1202. Definitions. As used in this act the
24 following definitions apply:

25 (1) "Board" means the mental disabilities board of

54

1 visitors created by this act.

2 (2) "Community-based facilities" or "community-based
3 services" ~~include~~ includes those services and facilities
4 which are available for the evaluation, treatment, and
5 habilitation of the developmentally disabled in a community
6 setting, including but not limited to, outpatient
7 facilities, special education services, group homes, foster
8 homes, ~~day-care~~ day-care facilities, sheltered workshops,
9 and other community-based services and facilities.

10 (3) "Court" means ~~the~~ a district court of the state of
11 Montana.

12 (4) "Developmentally disabled" means suffering from
13 disabilities attributable to mental retardation, cerebral
14 palsy, epilepsy, autism, or any other neurologically
15 handicapping condition closely related to mental retardation
16 and requiring treatment similar to that required by mentally
17 retarded individuals, which condition has continued or can
18 be expected to continue indefinitely and constitutes a
19 substantial handicap of such individuals.

20 (5) "Habilitation" means the process by which a person
21 who is developmentally disabled is assisted to acquire and
22 maintain those life skills which enable him to cope more
23 effectively with the demands of his own person and
24 environment and to raise the level of his physical, mental,
25 and social efficiency. Habilitation includes but is not

1 limited to formal, structured education and treatment.

2 (6) "Next of kin" includes but need not be limited to
3 the spouse, parents, adult children, and adult brothers and
4 sisters of a person.

5 (7) "Professional person" means:

6 (a) a medical doctor; or

7 (b) a person trained in the field of developmental
8 disabilities and certified by the department of institutions
9 or the department of social and rehabilitation services in
10 accordance with standards of professional licensing boards,
11 federal regulations, and the joint commissions on
12 accreditation of hospitals.

13 (8) "Resident" means a person admitted to a
14 residential facility for a course of evaluation, treatment,
15 or habilitation.

16 (9) "Residential facility" or "facility" means any
17 residential hospital or hospital and school which exists for
18 the purpose of evaluating, treating, and habilitating the
19 developmentally disabled on an inpatient basis, including
20 the Boulder River ~~School~~ school and ~~Hospital~~ hospital and
21 the Eastmont ~~training-center~~ training center. The term does
22 not include a group home, or foster home, or a halfway
23 house. A correctional facility or a facility for the
24 treatment of the mentally ill shall not be a "residential
25 facility" within the meaning of this act.

75

1 (10) "Respondent" means a person alleged in a petition
2 filed pursuant to this act to be developmentally disabled
3 and in need of developmental ~~disabilities~~ disability
4 services.

5 (11) "Responsible person" means any person willing and
6 able to assume responsibility for a person who is
7 developmentally disabled or alleged to be developmentally
8 disabled. Whenever in any proceeding under this act the
9 court believes that a conflict of interest may exist between
10 a person who is developmentally disabled or alleged to be
11 developmentally disabled and his parents or guardian or
12 that the parents or guardian are unable to protect the
13 interests of such person or whenever there is no parent or
14 guardian, the court shall appoint a responsible person to
15 protect the interests of the person who is developmentally
16 disabled or alleged to be developmentally disabled. Only
17 one person shall at any one time be the responsible person
18 within the meaning of this act. In appointing a responsible
19 person, the court shall consider the preference of the
20 respondent or patient. The court may at any time, for good
21 cause shown, change its designation of who is the
22 responsible person.

23 (12) "Seriously developmentally disabled" means
24 developmentally disabled due to developmental or physical
25 disability or a combination of both rendering a person

1 unable to function in a community-based setting."

2 Section 5. Section 38-1205, R.C.M. 1947, is amended to
3 read as follows:

4 "38-1205. ~~Procedure for reporting developmentally~~
5 ~~disabled~~ Petition for involuntary treatment. (1) Any person
6 who believes that there is a person who is developmentally
7 disabled and in need of developmental disability services
8 may report the situation to a professional person. If the
9 professional person believes from the facts given to him
10 that the person may be developmentally disabled and in need
11 of developmental disability services, he shall contact the
12 parents or guardian of the person alleged to be
13 developmentally disabled or the person himself. If any of
14 the persons so contacted refuse to cooperate with the
15 professional person and if the professional person believes
16 from all the circumstances of the case that the person may
17 be developmentally disabled and in need of developmental
18 ~~disabilities~~ disability services, he shall request the
19 county attorney to file a petition alleging that there is a
20 person in the county who is developmentally disabled and in
21 need of developmental ~~disabilities~~ disability services.

22 (2) The petition shall contain ~~the name and address~~
23 of:

24 (a) the name and address of the professional person
25 and any other person requesting the petition and their

1 interest in the case;

2 (b) the name and address of the respondent;

3 (c) the name and address of the parents or guardian of

4 the respondent, and of any other person believed to be

5 legally responsible for the care, support, and maintenance

6 of the respondent;

7 (d) the name and address of the respondent's next of

8 kin, to the extent known;

9 (e) the name and address of any person whom the county

10 attorney believes might be willing and able to be appointed

11 responsible person; and

12 (f) a statement of the rights of the respondent and

13 his parents or guardian which shall be in conspicuous print

14 and identified by a suitable heading.

15 (3) Upon presentation to the court by the county

16 attorney, the court shall immediately consider the petition

17 with or without a hearing to determine if there is probable

18 cause to believe that the respondent is developmentally

19 disabled and in need of evaluation and treatment. If the

20 court finds no such probable cause, it shall dismiss the

21 petition. If the court finds that probable cause does

22 exist, it shall direct a professional person to examine the

23 respondent and to make an inquiry concerning the

24 circumstances of the case. Such examination shall not

25 exceed four (4) hours in length. If probable cause is

1 found, the court may appoint a responsible person other than

2 the respondent's parents or guardian to protect the

3 interests of the respondent. The responsible person shall

4 be notified as soon as possible that a petition has been

5 filed. Notice of the petition and the finding of probable

6 cause shall be mailed or delivered to the respondent and to

7 all other persons named in the petition and to any person

8 who would have been named in the petition had his name,

9 address, and relationship to the respondent been known at

10 the time.

11 (4) When the professional person first contacts the

12 respondent, before he begins any examination, he shall give

13 the respondent a copy of the petition and explain to the

14 respondent the nature of the proceeding and his rights as

15 set forth in the petition. If the respondent is incapable

16 of understanding the explanation and proceeding, the

17 professional person shall give the petition and make the

18 explanation to the parents or guardian of the respondent.

19 Before making any inquiry of the parents or guardian of the

20 respondent, the professional person shall give them a copy

21 of the petition, and explain the nature of the proceeding

22 and their rights as set forth in the petition."

23 Section 6. Section 38-1206, R.C.M. 1947, is amended to

24 read as follows:

25 "38-1206. Petition-dismissal---hearing---counsel---

1 treatment ~~Action on petition~~. (1) If the professional
2 person, based on his examination and inquiry, determines
3 that the respondent is not developmentally disabled or is
4 not in need of developmental disability services, he shall
5 report this finding in writing to the court and the petition
6 shall be dismissed. If the professional person concludes
7 that the respondent is developmentally disabled and in need
8 of developmental disability services, he shall report this
9 conclusion to the court in writing together with his
10 recommendations for evaluation and treatment. The report
11 shall include an explanation of the basis on which the
12 professional person has reached his conclusion and shall
13 include a description of any tests or evaluation devices he
14 has employed. If the professional person's recommendation
15 is for further evaluation and treatment, notice of this
16 recommendation shall be sent to the respondent, his parents
17 or guardian, the next of kin, the responsible person
18 appointed by the court, if any, ~~and~~ any attorney
19 representing the respondent or his parents or guardian. If
20 no responsible person has yet been appointed, the court may
21 appoint one at this time.

22 (2) If the respondent, his parents or guardian, the
23 responsible person, if any, or counsel for any party
24 requests a hearing on the recommendation, the court shall
25 set a time and place for hearing. The hearing shall be

1 before the court without a jury. The rules of civil
2 procedure shall apply.

3 (3) Prior to any hearing held pursuant to this
4 section, the court shall appoint counsel to represent the
5 respondent, if the respondent has not retained independent
6 counsel. The parents [or guardian] shall be informed of
7 their right to counsel, and if they are indigent, the court
8 shall, on their request, appoint counsel for them. In no
9 case ~~shall~~ may the same attorney represent the respondent
10 and his parents or guardian.

11 (4) If the hearing is waived or if the court finds,
12 after hearing, that the respondent is developmentally
13 disabled and in need of further evaluation and treatment,
14 the court shall order that the respondent undergo such
15 evaluation and treatment. Evaluation and treatment ordered
16 pursuant to this subsection ~~shall~~ may not be for no more
17 than ~~thirty~~ 30 days. It shall take place in the least
18 restrictive environment in which the necessary evaluation
19 and treatment can be accomplished. Evaluation and treatment
20 in a residential facility ~~shall~~ may be ordered only if the
21 necessary evaluation and treatment cannot be accomplished
22 through the use of community-based facilities."

23 Section 7. Section 38-1208, R.C.M. 1947, is amended to
24 read as follows:

25 "38-1208. Recommendation to residential facility. (1)

62

1 If as a result of the evaluation and treatment, either
 2 agreed to by the parents, guardian, or the person himself
 3 pursuant to section 38-1204 or ordered by the court, the
 4 professional person in charge of the case concludes that the
 5 person evaluated is seriously developmentally disabled and
 6 recommends that treatment and habilitation be had in a
 7 residential facility on an extended basis, the professional
 8 person shall file his written recommendation and report
 9 with the court and request that the court order the
 10 admission. The report shall include the factual basis for
 11 the recommendation, and shall describe any tests or
 12 evaluation devices which have been employed in evaluating
 13 the patient. If no responsible person has yet been
 14 appointed, the court may appoint one at this time. If there
 15 is no parent or guardian, the court shall appoint a
 16 responsible person. At the request of the respondent, his
 17 parents or guardian, or the responsible person, the court
 18 shall appoint counsel for the respondent. If the parents
 19 (or guardian) are indigent and if they request it, the court
 20 shall appoint counsel for the parents or guardian. Notice
 21 of the recommendation shall be mailed or delivered to the
 22 respondent, his parents or guardian, the responsible person,
 23 next of kin, if known, and the attorney for the respondent,
 24 if any, and for the parents or guardian, if any.

25 (2) The respondent, his parents or guardian, the

1 responsible person, or the attorney for any party may
 2 request that a hearing be had on the recommendation. If a
 3 hearing is requested, the court shall mail or deliver notice
 4 of the date, time, and place of the hearing to each of the
 5 parties listed at the beginning of this subsection. The
 6 hearing shall be to the court without jury. The rules of
 7 civil procedure shall apply.

8 (3) If the court finds that the respondent is
 9 seriously developmentally disabled and that available
 10 community-based services are not adequate, it shall order
 11 the respondent admitted to a residential facility for an
 12 extended course of treatment and habilitation. If the court
 13 finds that the respondent is developmentally disabled, and
 14 in need of developmental ~~disabilities~~ disability services,
 15 but and that available community-based services are
 16 adequate, it shall order the respondent to undertake a
 17 community-based course of treatment and habilitation. If
 18 the court finds that the respondent is not developmentally
 19 disabled or is not in need of developmental disability
 20 services, it shall dismiss the request.

21 (4) If none of the parties notified of the
 22 recommendation request a hearing, the court may issue an
 23 order authorizing the person to be admitted to the
 24 residential facility for an extended period of treatment and
 25 habilitation, or the court may initiate its own inquiry as

1 to whether the order should be granted. The court may
2 refuse to authorize admission of a person to a residential
3 facility for an extended period of treatment and
4 habilitation if such admission is not in the best interests
5 of the person.

6 (b) If any person is admitted to a residential
7 facility for an extended course of habilitation without a
8 hearing, and if subsequent to such admission one of the
9 parties who could have requested a hearing learns that an
10 alternative course of treatment is available which is more
11 suitable to the needs of the resident, the party may request
12 the professional person in charge of the residential facility to release
13 the resident to the alternative, if it is a community-based
14 alternative, or transfer the resident to the alternative, if
15 it is a residential alternative. Any such transfer or
16 release shall comply with the requirements of section
17 38-1209. If the professional person in charge of the
18 resident refuses to authorize the release or transfer, then
19 the party may petition the court for a hearing to determine
20 whether the present residential alternative should be
21 continued. The hearing shall comply with the procedures set
22 forth in subsection (2) of this section."

23 Section 8. Section 38-1222, R.C.M. 1947, is amended to
24 read as follows:

25 "38-1222. ~~Other rights while in a residential facility~~

1 ~~Right to habilitation.~~ (1) Persons admitted to residential
2 facilities shall have a right to habilitation, including
3 medical treatment, education, and care, suited to their
4 needs, regardless of age, degree of retardation, or
5 handicapping condition. Each resident has a right to a
6 habilitation program which will maximize his human abilities
7 and enhance his ability to cope with his environment. Every
8 residential facility shall recognize that each resident,
9 regardless of ability or status, is entitled to develop and
10 realize his fullest potential. The facility shall implement
11 the principle of normalization so that each resident may
12 live as normally as possible.

13 (2) Residents shall have a right to the least
14 restrictive conditions necessary to achieve the purposes of
15 habilitation. To this end, the facility shall make every
16 attempt to move residents from:

- 17 (a) more to less structured living;
- 18 (b) larger to smaller facilities;
- 19 (c) larger to smaller living units;
- 20 (d) group to individual residence;
- 21 (e) segregated from the community to integrated into
22 the community living;
- 23 (f) dependent to independent living.

24 (3) Within ~~thirty~~ (30) days of his admission to a
25 residential facility, each resident shall have an evaluation

1 by appropriate specialists for programming purposes.

2 (4) Each resident shall have an individualized
3 habilitation plan formulated by the facility. This plan
4 shall be developed by appropriate professional persons and
5 implemented as soon as possible but no later than fourteen
6 {14} days after the resident's admission to the facility.

7 An interim program of habilitation, based on the
8 preadmission evaluation conducted pursuant to this act,
9 shall commence promptly upon the resident's admission. Each
10 individualized habilitation plan shall contain:

11 (a) a statement of the nature of the specific
12 limitations and specific needs of the resident;

13 (b) a description of intermediate and long-range
14 habilitation goals with a projected timetable for their
15 attainment;

16 (c) a statement of, and an explanation for, the plan
17 of habilitation for achieving these intermediate and
18 long-range goals;

19 (d) a statement of the least restrictive setting for
20 habilitation necessary to achieve the habilitation goals of
21 the resident;

22 (e) a specification of the professional persons and
23 other staff members who are responsible for the particular
24 resident's attaining these habilitation goals;

25 (f) criteria for release to less restrictive settings

1 for habilitation, including criteria for discharge and a
2 projected date for discharge.

3 (5) As part of his habilitation plan, each resident
4 shall have an individualized ~~post-institutionalization~~
5 ~~postinstitutionalization~~ plan. This plan shall be developed
6 by a professional person who shall begin preparation of such
7 plan upon the resident's admission to the institution and
8 shall complete such plan as soon as practicable. The
9 parents or guardian or next of kin of the resident, the
10 responsible person appointed by the court, if any, and the
11 resident, if able to give informed consent, shall be
12 consulted in the development of such plan and shall be
13 informed of the content of such plan.

14 (6) In the interests of continuity of care, one
15 professional person shall whenever possible be responsible
16 for supervising the implementation of the habilitation plan,
17 integrating the various aspects of the habilitation
18 program, and recording the resident's progress as measured
19 by objective indicators. This professional person shall
20 also be responsible for ensuring that the resident is
21 released when appropriate to a less restrictive habilitation
22 setting.

23 (7) The habilitation plan shall be continuously
24 reviewed by the professional person responsible for
25 supervising the implementation of the plan and shall be

1 modified if necessary. In addition, ~~six~~(6) months after
 2 admission and at least annually thereafter, each resident
 3 shall receive a comprehensive psychological, social,
 4 educational, and medical diagnosis and evaluation, and his
 5 habilitation plan shall be reviewed by an interdisciplinary
 6 team of no less than two ~~(2)~~ professional persons and such
 7 resident care workers as are directly involved in his
 8 habilitation and care. A habilitation plan shall be
 9 reviewed monthly.

10 (8) Each resident discharged to the community shall
 11 have a program of transitional habilitation assistance.

12 (9) The professional person in charge of the
 13 residential facility shall report in writing to the parents
 14 or guardian of the resident, or the responsible person, at
 15 least every ~~six~~(6) months on the resident's educational,
 16 vocational, and living skills progress and medical
 17 condition. Such report shall also state any appropriate
 18 habilitation program which has not been afforded to the
 19 resident because of inadequate habilitation resources.

20 (10) The parents or guardian of each resident, or the
 21 responsible person appointed by the court, shall promptly
 22 upon ~~the~~ resident's admission receive a written copy of all
 23 the above standards for adequate habilitation. Each
 24 resident, if the resident is able to comprehend, shall
 25 promptly upon his admission be orally informed in clear

1 language of the above standards and, where appropriate, be
 2 provided with a written copy."

3 Section 9. Section 38-1302, R.C.M. 1947, is amended to
 4 read as follows:

5 "38-1302. Definitions. As used in this act ~~the~~
 6 following definitions apply:

7 (1) "Board" means the mental disabilities board of
 8 visitors created by this act.

9 (2) "Court" means ~~the~~ a district court of the state of
 10 Montana.

11 (3) "Department" means the department of institutions
 12 provided for in Title 82A, chapter 10.

13 (4) "Emergency situation" means a situation in which
 14 any person is in imminent danger of death or serious bodily
 15 harm from the activity of a person who appears to be
 16 seriously mentally ill.

17 (5) "Mental disorder" means any organic, mental, or
 18 emotional impairment which has substantial adverse effects
 19 on an individual's cognitive or volitional functions.

20 (6) "Mental health facility" or "facility" means a
 21 public hospital or a licensed private hospital or a
 22 community mental health center, or any mental health clinic
 23 or treatment center approved by the department. No
 24 correctional institution or facility, or jail, is a mental
 25 health facility within the meaning of this act.

(7) "Next of kin" shall include, but need not be limited to, the spouse, parents, adult children, and adult brothers and sisters of a person.

(8) "Patient" means a person committed by the court to a ~~seventy-two--(72)-hour~~ 72-hour evaluation or treatment or for a longer period.

(9) "Peace officer" means any sheriff, deputy sheriff, marshal, policeman, or other peace officer.

(10) "Professional person" means:

(a) a medical doctor, or

(b) a person trained in the field of mental health and certified by the department of ~~institutions~~ in accordance with standards of professional licensing boards, federal regulations, and the joint commission on accreditation of hospitals.

(11) "Respondent" means a person alleged in a petition filed pursuant to this act to be seriously mentally ill.

(12) "Responsible person" means any person willing and able to assume responsibility for a seriously mentally ill person or person alleged to be seriously mentally ill, including next of kin; the person's conservator or legal guardian, if any; representatives of a charitable or religious organization, or any other person appointed by the court to perform the functions of a "responsible person" set out in this act. Only one person shall at any one time

be the "responsible person" within the meaning of this act. In appointing a responsible person, the court shall consider the preference of the respondent. The court may, at any time for good cause shown, change its designation of the "responsible person".

(13) "Seriously mentally ill" means suffering from a mental disorder which has resulted in self-inflicted injury or injury to others, or the imminent threat thereof, or which has deprived the person afflicted of the ability to protect his life or health. No person may be involuntarily committed to a mental health facility ~~nor or~~ detained for evaluation and treatment because he is an epileptic, mentally deficient, mentally retarded, senile, or suffering from a mental disorder unless the condition causes the person to be seriously mentally ill within the meaning of this act."

Section 10. Section 41-817, R.C.M. 1947, is amended to read as follows:

"41-817. Definitions. (1) "Severely handicapped person" means any individual:

(a) who has a physical or mental impairment which requires multiple services over an extended period of time and results from amputation, blindness, cancer, cerebral palsy, cystic fibrosis, deafness, heart disease, hemiplegia, respiratory or pulmonary dysfunction, mental retardation,

67

1 mental illness, multiple sclerosis, muscular dystrophy,
2 neurological disorders (including stroke and epilepsy),
3 paraplegia, quadriplegia, and other spinal cord conditions,
4 renal failure, and any other disability specified by the
5 department in regulations it shall prescribe; and/or

6 (b) who, because of lack of social competence,
7 mobility, experience, skills, training, or other successful
8 characteristics, is in need of sheltered employment or work
9 activity services in a protective setting.

10 (2) "Physical or mental disability" means a physical
11 or mental condition which materially limits, contributes to
12 limiting, or if not corrected, will probably result in
13 limiting an individual's activities or functioning. The term
14 includes behavioral disorders characterized by deviant
15 social behavior or impaired ability to carry out normal
16 relationships with family and community which may result
17 from vocational, educational, cultural, social,
18 environmental, or other factors.

19 (3) "Vocational rehabilitation services" means goods
20 or services provided handicapped persons to enable such
21 persons to be fit for gainful occupation or to attain or
22 maintain a maximum degree of self-support or self-care and
23 includes every type of goods and services for which federal
24 funds are available for vocational rehabilitation purposes,
25 including, but not limited to, the establishment,

1 construction, development, operation, and maintenance of
2 workshops and rehabilitation facilities.

3 (4) "Self-care" means a reasonable degree of
4 restoration from dependency upon others for personal needs
5 and care and includes but is not limited to ability to live
6 in own home, rather than requiring nursing home care and
7 care for self rather than requiring attendant care.

8 (5) "Department" means the department of social and
9 rehabilitation services.

10 (6) "Sheltered workshop" means a charitable
11 organization or institution conducted not for profit, but
12 for the purpose of carrying out a recognized program of
13 rehabilitation for handicapped workers, and/or providing
14 such individuals with remunerative employment or other
15 occupational rehabilitating activity of an educational or
16 therapeutic nature.

17 (7) "Work activity center" means a physically
18 separated department of a workshop having an identifiable
19 program, separate supervision and records, and which is
20 planned and designed exclusively to provide therapeutic
21 activities for handicapped workers whose physical or mental
22 impairment is so severe as to make their productive capacity
23 inconsequential. Therapeutic activities include custodial
24 activities (such as activities where the focus is on teaching
25 the basic skills of living), and any purposeful activity

1 so long as work or production is not the main purpose."

2 Section 11. Section 71-113, R.C.M. 1947, is amended to
3 read as follows:

4 "71-113. Bond of contractor -- duty of physician to
5 examine and notify contractor. Any A person with whom any a
6 such contract for the maintenance or medical attendance of
7 the poor or indigent sick is made must execute a bond to the
8 state in a sum not less than one-thousand \$1,000 nor or more
9 than five-thousand--dollars \$5,000, with two or more
10 sureties, conditioned for the faithful performance of his
11 contract. ~~said~~ The bond is to be approved by and filed with
12 the chairman of the board. ~~it is the duty of the~~ The
13 physician with whom ~~the a~~ contract for medical attendance is
14 made ~~to examine~~ shall each week examine any person who is a
15 charge upon the county, and if, after ~~such the~~ examination
16 he is satisfied that ~~such the~~ person is able to support and
17 maintain himself, he must ~~so~~ notify the contractor having
18 the person in charge by leaving with the contractor a
19 notice of the fact that ~~such the~~ person requires no further
20 medical attendance, ~~and He shall~~ file a duplicate thereof
21 notice with the clerk of the board. After the ~~serving--of~~
22 ~~said physician serves the~~ notice and ~~fitting~~ files the
23 duplicate thereof with the clerk, the person mentioned
24 therein ceases to be a charge upon the county."

25 Section 12. Section 71-207, R.C.M. 1947, is amended to

1 read as follows:

2 "71-207. ~~Legal services~~ Attorney general to act as
3 legal adviser to department. The attorney general of the
4 state shall act as legal adviser to the state department,
5 and shall perform such legal services as may be required,
6 and ~~he is hereby empowered to~~ may employ such other and
7 additional counsel as may be necessary for this purpose, and
8 ~~may fix the compensation therefor, provided, however, that~~
9 ~~the~~ The total yearly sum per annum for the service shall may
10 not exceed ~~twenty-four--hundred--(\$2,400.00)--dollars~~, which
11 compensation shall be paid out of state public welfare
12 assistance funds."

13 Section 13. Section 71-210, R.C.M. 1947, is amended to
14 read as follows:

15 "71-210. ~~Authority~~ Powers and activities duties of the
16 state department. (1) ~~The--state-department-has-authority~~
17 ~~over-and-administration-or-supervision-of-all--the--purposes~~
18 ~~and--operations--as-set-forth-under--title--71.~~ The state
19 department shall:

20 (a) ~~Administer~~ administer or supervise all forms of
21 public assistance, child protection, and child welfare,
22 including the provision of medical care payments in behalf
23 of recipients of public assistance;

24 (b) ~~Administer~~ administer or supervise all child
25 welfare activities, including importation and exportation of

67

1 children; licensing and supervising of private and local
 2 child-caring agencies; the care of dependent, neglected, and
 3 delinquent children in foster family homes, especially
 4 children placed for adoption or those of illegitimate birth;

5 (c) ~~Give~~ give consultant service to private
 6 institutions providing care for the needy, indigent,
 7 handicapped, or dependent adults;

8 (d) ~~Develop and~~ cooperate with other state agencies
 9 and develop provisions for services to the blind, including
 10 the prevention of blindness, the location of blind persons,
 11 medical services for eye conditions, and vocational guidance
 12 and training of the blind;

13 (e) ~~Provide~~ provide services in respect to
 14 organization and supervise county departments of public
 15 welfare and county boards of public welfare in the
 16 administration of public ~~welfare~~ assistance functions, and
 17 for efficiency and economy;

18 (f) ~~Assist~~ assist and cooperate with other state and
 19 federal departments, bureaus, agencies, and institutions,
 20 when so requested, by performing services in conformity with
 21 ~~the purposes of this act.~~ public assistance purposes; and

22 (g) ~~Administer~~ administer and supervise all federal
 23 funds allocated to this state and all state funds
 24 appropriated to ~~this~~ the state department for ~~the activities~~
 25 ~~set forth in title 71~~ public assistance activities. The

1 state department shall do all things necessary, in
 2 conformity with federal and state law, for the proper
 3 fulfillment of ~~the purposes set forth in title 71~~ public
 4 assistance purposes.

5 (4) The state department may:

6 (a) ~~Purchase~~ purchase, exchange, condemn, or receive
 7 by gift, either real or personal property which is necessary
 8 to carry out its public assistance functions ~~under title 71.~~
 9 Title to property obtained under this subsection shall be
 10 taken in the name of the state of Montana, for the use and
 11 benefit of the state department.

12 (b) ~~Contract~~ contract with the federal government to
 13 carry out its public assistance functions ~~under title 71.~~
 14 The state department may do all things necessary in order to
 15 avail itself of federal aid and assistance."

16 Section 14. Section 71-211, R.C.M. 1947, is amended to
 17 read as follows:

18 "71-211. State department to act as agency of federal
 19 government -- assistance to ward Indians. (1) The state
 20 department shall act as the agent of the federal government
 21 in public ~~welfare~~ assistance matters of mutual concern in
 22 conformity with this act and the ~~Federal~~ federal Social
 23 Security Act, and in the administration of any federal funds
 24 granted to the state to aid in the purposes and functions of
 25 the state department.

68

1 (21) The counties shall not be required to reimburse
 2 the state department for any portion of old-age assistance,
 3 medical assistance, aid to needy dependent children, or aid
 4 to needy blind, or aid to the totally disabled paid to ward
 5 Indians or for any payment on behalf of any person in a
 6 state-operated medical institution, further--provided--that
 7 the the federal government may reimburse the state of
 8 Montana in behalf of counties, providing general relief to
 9 ward Indians, a sum in lieu of taxes which the counties
 10 would collect if the lands of such ward Indians were not in
 11 trust status. A "ward Indian" is hereby defined as an Indian
 12 who is living on an Indian reservation set aside for tribal
 13 use, or is a member of a tribe or nation accorded certain
 14 rights and privileges by treaty or by federal statutes. If
 15 and when the Federal Federal Social Security Act is amended
 16 to define a "ward Indian," such definition shall supersede
 17 the foregoing definition."

18 Section 15. Section 71-212, R.C.M. 1947, is amended to
 19 read as follows:

20 "71-212. State Power of state department in
 21 administering state grants-in-aid. In administering or
 22 supervising any state or federal funds appropriated or made
 23 available to the state department for public welfare
 24 assistance purposes, the state department shall have the
 25 authority to:

1 (a) (1) ~~Require~~ require as a condition for receiving
 2 grants-in-aid that the county shall bear the proportion of
 3 the total of local public assistance as is fixed by law
 4 relating to such assistance;

5 (b) (2) ~~Make~~ make use of all legal processes to enforce
 6 the minimum standards prescribed by the state department
 7 under laws providing for grants-in-aid, provided that such
 8 standards shall not exceed in cost the amount derived from
 9 levies established by state law; and

10 (c) (3) ~~Require~~ require that each part of ~~this act~~ the
 11 public assistance laws shall be in effect in all counties of
 12 the state."

13 Section 16. Section 71-213, R.C.M. 1947, is amended to
 14 read as follows:

15 "71-213. County departments to be established. There
 16 shall be established in each county of the state a county
 17 department of public welfare which shall consist of a county
 18 board of public welfare and such staff personnel as may be
 19 necessary for the efficient performance of the public
 20 welfare assistance activities of the county. Provided,
 21 ~~however--if~~ If conditions warrant and if two or more county
 22 boards enter into an agreement, two or more counties may
 23 combine into one administrative unit and use the same staff
 24 personnel throughout the administrative unit."

25 Section 17. Section 71-214, R.C.M. 1947, is amended to

67

1 read as follows:

2 "71-214. County commissioners ex officio county
3 welfare board -- compensation. The board of county
4 commissioners, ex officio, shall be the county welfare board
5 and is hereby authorized to devote such additional time for
6 public ~~welfare~~ assistance matters as may be found necessary.
7 The members of the county welfare board shall receive the
8 same compensation for their services and the same mileage
9 when acting as the county board of public welfare as they
10 receive when acting as the board of county commissioners and
11 shall be limited as to meetings as now provided by law, and
12 the compensation and mileage of the members of the board
13 shall be paid from county funds. They may transact business
14 as a board of county commissioners and as a county welfare
15 board on the same day, and in such cases they shall be paid
16 as a board of county commissioners, but ~~shall in no case~~ may
17 not receive compensation for more than one 1 day's work for
18 all services performed on the same calendar day."

19 Section 18. Section 71-216, R.C.M. 1947, is amended to
20 read as follows:

21 "71-216. Powers and duties of the county board. The
22 county board of public welfare ~~shall be~~ is responsible for
23 establishing local policies and such rules ~~and--regulations~~
24 as are necessary to govern the county department and local
25 administration of public ~~welfare~~ assistance activities

1 except that all such policies and rules ~~and--regulations~~ must
2 be in conformity with general policies and rules ~~and~~
3 ~~regulations~~ established by the state department. The county
4 board of public welfare shall review the determinations of
5 eligibility and amount of payment to or on behalf of
6 individuals made by the staff of the county department for
7 conformity with the aforesaid rules ~~and--regulations~~.
8 Determinations not in conformity will be referred to the
9 staff by the county welfare board for appropriate action as
10 authorized by ~~said the~~ board."

11 Section 19. Section 71-217, R.C.M. 1947, is amended to
12 read as follows:

13 "71-217. Staff personnel -- how selected, paid, and
14 controlled -- dismissal. ~~(1)~~ Each county board shall select
15 and appoint from a list of qualified persons furnished by
16 the state department such staff personnel as are necessary.
17 The staff personnel in each county shall consist of at least
18 one qualified staff worker (or investigator) and such clerks
19 and stenographers as may be decided necessary. If conditions
20 warrant, the county board, with the approval of the state
21 department, may appoint some fully qualified person listed
22 by the state department as supervisor of its staff
23 personnel. The staff personnel of each county department are
24 directly responsible to the county board, but the state
25 department ~~shall have the authority to~~ may supervise such

1 county employees in respect to the efficient and proper
2 performance of their duties. The county board of public
3 welfare ~~shall~~ may not dismiss any member of the staff
4 personnel without the approval of the state department; but
5 the state department ~~shall have the authority to~~ may request
6 the county board to dismiss any member of the staff
7 personnel for inefficiency, incompetence, or similar cause.

8 (2) Public assistance staff personnel attached to the
9 county board shall be paid from state public welfare
10 assistance funds, both their salaries and their travel
11 expenses, as provided for in sections 59-538, 59-539, and
12 59-801, when away from the county seat in the performance of
13 their duties; but the county board of public welfare shall
14 reimburse the state department from county poor funds
15 one-half of the payments so made to its public assistance
16 staff personnel, except that, under circumstances prescribed
17 by the state department, the reimbursement by the county
18 board of public welfare may be less than one-half. All other
19 administrative costs of the county department shall also be
20 paid from county poor funds.

21 (3) On or before the 20th day of the month following
22 the month for which the payments to the public assistance
23 staff personnel of the county were made, the state
24 department shall present to the county department of public
25 welfare a claim for the required reimbursements. The county

1 board shall make such reimbursements within ~~twenty~~ {20} days
2 after the presentation of the claim, and the state
3 department shall credit (add) all such reimbursements to its
4 account for administrative costs."

5 Section 20. Section 71-222, R.C.M. 1947, is amended to
6 read as follows:

7 "71-222. Millage ~~taxes~~ ~~to be levied~~
8 ~~expenditures~~ ~~budgets~~ County to levy taxes, budget, and make
9 expenditures for public assistance activities. (1) The board
10 of county commissioners in each county shall levy ~~seventeen~~
11 ~~{17}~~ 13.5 mills for the county poor fund as provided by law
12 or so much thereof as may be necessary. The board shall
13 budget and expend so much of the funds in the county poor
14 fund for ~~all~~ public assistance purposes ~~of this act~~ as will
15 enable the county welfare department to pay the general
16 relief activities of the county and to reimburse the state
17 department for the county's proportionate share of the
18 administrative costs of the county welfare department and of
19 all public assistance and its proportionate share of any
20 other ~~welfare~~ public assistance activity that may be carried
21 on jointly by the state and the county.

22 (2) The amounts set up in the budget for the
23 reimbursements to the state department shall be sufficient
24 to make all of these reimbursements in full. The budget
25 shall make separate provision for each one of these public

17

1 assistance activities, and proper accounts shall be
2 established for the funds for all such activities.

3 (3) As soon as the preliminary budget provided for in
4 ~~section~~ 16-1903 has been agreed upon, a copy thereof shall
5 without delay be mailed to the state department, and at any
6 time before the final adoption of the budget, the department
7 shall make such recommendations with regard to changes in
8 any part of the budget relating to the county poor fund as
9 considered necessary in order to enable the county to
10 discharge its obligations under the ~~Public-Welfare-Act~~
11 public assistance laws.

12 (4) The state department shall promptly examine the
13 preliminary budget in order to ascertain if the amounts
14 provided for reimbursements to the state department are
15 likely to be sufficient, and shall notify the county clerk
16 of ~~his~~ its findings. The board shall make such changes in
17 the amounts provided for reimbursements, if any are
18 required, in order that the county will be able to make the
19 reimbursements in full.

20 (5) The board of county commissioners may not make any
21 transfer from the amounts budgeted for reimbursing the state
22 department without having first obtained a statement in
23 writing from the state department to the effect that the
24 amount to be transferred will not be required during the
25 fiscal year for the purposes for which the amounts were

1 provided in the budget.

2 (6) No part of the county poor fund, irrespective of
3 the source of any part thereof, may be used directly or
4 indirectly for the erection or improvement of any county
5 building so long as the fund is needed for general relief
6 expenditures by the county or is needed for paying the
7 county's proportionate share of public assistance, or its
8 proportionate share of any other ~~welfare~~ public assistance
9 activity that may be carried on jointly by the state and the
10 county. Expenditures for improvement of any county buildings
11 used directly for care of the poor may be made out of any
12 moneys in the county poor fund, whether such moneys are
13 produced by ~~the seventeen-(17)-mill~~ 13.5-mill levy provided
14 for in ~~paragraph-one subsection~~ (1) of this section or from
15 any additional levy authorized or to be authorized by law.
16 Such expenditure shall be authorized only when any county
17 building used for the care of the poor must be improved in
18 order to meet legal standards required for such buildings by
19 the department of health and environmental sciences, and
20 when such expenditure has been approved by the state
21 department."

22 Section 21. Section 71-226, R.C.M. 1947, is amended to
23 read as follows:

24 "71-226. ~~Fraudulent--acts~~ Fraudulent obtainment of
25 public assistance a misdemeanor. Whoever knowingly obtains

1 or attempts to obtain, or aids, or abets any person to
 2 obtain, by means of a willfully false statement or
 3 representation or by impersonation, or other fraudulent
 4 device, public assistance to which he is not entitled, or
 5 assistance greater than that to which he is justly
 6 entitled, or whoever aids or abets in buying or in any way
 7 disposing of the property, either personal or real, of a
 8 recipient of assistance without the consent of the county
 9 department and with the intent to defeat the purposes of
 10 this act, shall be guilty of a misdemeanor. In assessing
 11 the penalty, the court shall take into consideration, among
 12 other factors, the amount of money fraudulently received."

13 Section 22. Section 71-230, R.C.M. 1947, is amended to
 14 read as follows:

15 "71-230. Method of issuing assistance grants --
 16 reimbursement. ~~(a)(1)~~ Checks in payment of public
 17 assistance, ~~as provided for in each part of this act~~ with
 18 the exception of general relief, shall be issued by the
 19 state department upon approved certificates of award and
 20 reports of changes of such eligible grantees as are
 21 forwarded by the county department to the state department,
 22 and all such checks will be mailed to the individual
 23 recipient or the appropriate vendor. The checks in payment
 24 of public assistance shall be issued in the full approved
 25 amount for each eligible approved grantee, and the original

1 monthly payment shall be from the state public welfare
 2 assistance accounts. All public assistance checks shall
 3 represent cash on demand at full par value to the recipient
 4 and vendor.

5 ~~(b)(2)~~ Whenever the state department, acting pursuant
 6 to standards established by said the department, shall
 7 determine determines that any otherwise eligible recipient
 8 of ~~old-age~~ old-age assistance, aid to the needy blind, or
 9 aid to the permanently and totally disabled, has, by reason
 10 of any physical or mental condition, such inability to
 11 manage funds that making payments to him would be contrary
 12 to his welfare, the department may, under standards
 13 established under the state plan, make the public assistance
 14 payment on behalf of such recipient to another person found
 15 by the department to be interested in or concerned with the
 16 welfare of such needy individual. Before such payments may
 17 be paid to such other person, such person shall give a bond,
 18 with adequate corporate surety and in form to be approved by
 19 the state department, running in favor of the needy
 20 individual and the state of Montana, conditioned upon the
 21 faithful use by such other person of the funds for the
 22 welfare of the said needy individual. Such bond shall be in
 23 an amount equal to six ~~(6)~~ times the amount of the monthly
 24 payment involved.

25 ~~(c)(3)~~ On or before the twentieth 20th of each month

53

1 the state department ~~will~~ shall present a claim for
2 reimbursement to each county department for its
3 proportionate share of public assistance granted in the
4 county to recipients during the month and for vendor medical
5 payments made on behalf of recipients in the previous month.
6 The county department ~~must~~ shall make such ~~the~~ reimbursement
7 to the state department within ~~twenty~~ {20} days after such
8 ~~the~~ claim is presented."

9 Section 23. Section 71-233.1, R.C.M. 1947, is amended
10 to read as follows:

11 "71-233.1. Investigations and enforcement actions by
12 department of revenue ~~--enforcement--actions~~. When requested
13 by the department of social and rehabilitation services, the
14 department of revenue shall ~~have the power and duty to~~:

15 ~~(a)~~ (1) investigate matters relating to public ~~welfare~~
16 assistance and vendor payments, including but not limited to
17 the claim for an acceptance of welfare public assistance
18 benefits by welfare public assistance recipients, and the
19 receipt and disbursement of welfare public assistance funds by
20 state, county, or other governmental agencies;

21 ~~(b)~~ (2) institute civil or criminal actions in the
22 appropriate courts to enforce the welfare public assistance
23 laws and violations thereof."

24 Section 24. Section 71-233.3, R.C.M. 1947, is amended
25 to read as follows:

1 "71-233.3. Information made available to department of
2 revenue. (1) The department of social and rehabilitation
3 services and its local units shall make available to the
4 department of revenue information contained in the welfare
5 public assistance files pertinent to the investigations and
6 judicial actions described in ~~section 1~~ {71-233.1}.

7 (2) Every other state, county, or other governmental
8 agency shall make available to the agents or attorneys of
9 the department of revenue, all records, files, memoranda,
10 forms, or other papers relating to public welfare assistance
11 matters, including income tax returns filed with the
12 department of revenue."

13 Section 25. Section 71-302.2, R.C.M. 1947, is amended
14 to read as follows:

15 "71-302.2. Residency requirements. (1) Any person
16 otherwise qualified who makes his home in ~~the--state--of~~
17 Montana with the intent to become a resident shall be
18 eligible for general relief. Upon the filing of his
19 application in the county of residence, his a qualified
20 applicant's general relief assistance shall be paid entirely
21 from state funds until he has resided for ~~one--(1)--~~ continuous
22 year in ~~the--state--of~~ Montana, at which time he shall become
23 a financial responsibility of the county in which he resides
24 at the expiration of the ~~one--(1)--year~~ 1-year period. A
25 person who leaves ~~the--state--of~~ Montana with the intent to

1 reside in another state, and later returns to reside in the
 2 state of Montana, ~~shall be deemed~~ is considered a new
 3 resident for the purposes of this act. If a recipient moves
 4 from his original county of residence to reside in another
 5 county, he shall continue to be a financial responsibility
 6 of the original county of residence for ~~one (1)~~ year from
 7 the date of his change of residence. If during this ~~one (1)~~
 8 year ~~1-year~~ period, the individual resides in several
 9 counties, he shall become a financial responsibility of the
 10 county in which he resides at the expiration of the ~~one (1)~~
 11 year ~~1-year~~ period. County medical assistance under section
 12 71-308 shall not be entitled to be paid from state funds.

13 (2) If a person is absent from the state voluntarily,
 14 he ~~shall be~~ is ineligible for general relief in the state of
 15 Montana. Aliens found to be illegally within the United
 16 States ~~shall~~ are not be eligible for relief from state
 17 funds.

18 (3) Recipients of public assistance who become wards
 19 or patients in a licensed nursing home or hospital, foster
 20 home, or a private charitable institution shall have the
 21 county share of financial participation paid entirely from
 22 state funds for ~~one (1)~~ year from the original date of
 23 entrustment or the original date of state residency,
 24 whichever is earlier. At the expiration of such period, the
 25 appropriate county, as defined by the following guidelines,

1 shall become financially responsible to the extent of its
 2 legally required share of participation. The county in which
 3 commitment of an adult is initiated ~~shall be deemed~~ is
 4 considered the county of financial responsibility except
 5 where court decree declares the residency to be otherwise.
 6 ~~Where~~ When an adult is transferred from a facility or
 7 institution to one of the above-enumerated facilities, the
 8 county which initiated the original commitment ~~shall be~~
 9 ~~deemed~~ is considered the county of financial responsibility
 10 except in the case of an adult transfer from an out-of-state
 11 institution, in which case the county in which the facility
 12 is located ~~shall be deemed~~ is considered the county of
 13 financial responsibility. In all cases where a minor patient
 14 or ward is involved, the county of financial responsibility
 15 ~~shall be~~ is the county in which the parent or guardian
 16 resides. ~~Where~~ If the custody of a minor is entrusted to a
 17 state agency, the agency ~~shall have the power to~~ may make a
 18 reasonable declaration of the county residency of its ward
 19 using applicable guidelines enumerated in this section. A
 20 person who reaches majority in an institution, ~~shall~~ upon
 21 release and restoration to competency, ~~have the power to~~ may
 22 determine his own county residency. Such person shall
 23 continue to be a financial responsibility of the county
 24 which initiated the original commitment for ~~one (1)~~ year
 25 from the date of release, at which time he shall become a

financial responsibility of his new county of residence.

(4) Nonresidents or interstate transients may receive temporary relief from county funds in cases of extreme necessity and destitution until they ~~may be~~ are returned at state expense to their state of residence or origin. Medical expenses arising from accidental injury to interstate transients shall be paid from county funds and reimbursed by the state upon submission of a proper claim.

(5) "Interstate transient", as the term is used in this act, is defined as an individual who has signed a declaration that he is unable to pay for his own necessities or transportation to return to his state of residence or origin and is en route to a point outside of this state, being unable, due to unexpected distress, to reach his destination."

Section 26. Section 71-303, R.C.M. 1947, is amended to read as follows:

"71-303. Eligibility for general relief -- based on investigation of resources. An applicant for general relief assistance, including medical care and hospitalization, shall be eligible to receive assistance only after investigation by the county department reveals that the income and resources are insufficient to provide the necessities of life ~~and assistance~~. Assistance shall be provided to meet a minimum subsistence compatible with

decency and health."

Section 27. Section 71-305, R.C.M. 1947, is amended to read as follows:

"71-305. ~~Equal~~ Right of equal consideration. Persons eligible for and in need of general relief ~~shall be~~, whether employable or unemployable, ~~shall be~~ given equal consideration for public assistance as those persons eligible for assistance under other parts of this act."

Section 28. Section 71-306, R.C.M. 1947, is amended to read as follows:

"71-306. ~~Right of hearing~~ Grievances concerning general relief assistance. Individuals or committees with complaints or grievances concerning general relief assistance may present their complaints or grievances to either the county board or the state department, and due consideration shall be given all proven facts presented by the individuals or committees. The county board or the state department shall take action to relieve situations brought to their attention under this section to the extent of funds available."

Section 29. Section 71-307, R.C.M. 1947, is amended to read as follows:

"71-307. Relief by check or disbursing orders. (1) All general relief disbursements by county departments of public welfare shall be by warrant or check. However, if the county

1 welfare department finds that a recipient is in the habit of
 2 dissipating general relief allowances instead of using them
 3 for the purposes intended, or that for any other reason it
 4 is better for the recipient and his family to receive the
 5 allowance through disbursing orders, then disbursing orders
 6 shall be used instead of cash payments, ~~but not~~ All such
 7 disbursing orders must be written in such form that the
 8 goods and merchandise to be provided may be furnished by any
 9 regular dealer in such goods and merchandise within the
 10 county. A recipient of general relief must register for
 11 employment with the ~~State---Employment---Service~~ state
 12 employment service and must accept available employment
 13 within his or her capability. Refusal to accept such
 14 employment will render the recipient ineligible for further
 15 general relief assistance. If the county has work available
 16 which a recipient of general relief is capable of
 17 performing, then the county department of public welfare may
 18 require the recipient to perform the work at the prevailing
 19 rate of wages paid by that county for similar work, to be
 20 paid from the county poor fund in place of granting him
 21 general relief.

22 (2) The county department of public welfare shall
 23 provide coverage under the ~~Workmen's~~ Workers' Compensation
 24 Act for those recipients of general relief working under the
 25 provisions hereof, and may enter into such agreements with

1 the division of ~~workmen's~~ workers' compensation of the
 2 department of labor and industry as may be necessary to
 3 carry out the provisions of this section.

4 (3) Any recipient of general relief who is subject to
 5 the provisions of this section and who without cause refuses
 6 to perform work assigned to him as herein provided, shall
 7 lose his eligibility for general relief for ~~one~~ one week for
 8 each refusal."

9 Section 30. Section 71-308, R.C.M. 1947, is amended to
 10 read as follows:

11 "71-308. ~~Medical~~ County to provide medical aid and
 12 hospitalization to indigent. (1) ~~Medical~~ Except as provided
 13 in other parts of this act, medical aid and hospitalization
 14 for nonresidents within the county and county residents
 15 unable to provide such necessities for themselves are the
 16 legal and financial duty and responsibility of the board of
 17 county commissioners, ~~except as otherwise provided in other~~
 18 ~~parts of this act~~, payable from the county poor fund. The
 19 board of county commissioners shall make provisions for
 20 competent and skilled medical or surgical services as
 21 approved by the department of health and environmental
 22 sciences or the state medical association, or in the case of
 23 osteopathic practitioners by the state osteopathic
 24 association or chiropractors by the state chiropractic
 25 association, or optometrical services as approved by the

77

1 Montana optometric association and dental services as
2 approved by the dental association. "Medical" or "medicine"
3 as used in this ~~act~~ section refers to the healing art as
4 practiced by licensed practitioners.

5 (2) The board, in arranging for medical care for those
6 unable to provide it for themselves, may have the care
7 provided by the physicians appointed by the board who shall
8 be known as county physicians or deputy county physicians,
9 and may fix a rate of compensation for the furnishing of the
10 medical attendance.

11 (3) The board of county commissioners shall make
12 suitable arrangements to provide respectable burial for
13 nonresidents within the county and county residents for whom
14 such expenses are not otherwise available.

15 (4) The department of social and rehabilitation
16 services may promulgate rules to determine under what
17 circumstances persons in the county are unable to provide
18 medical aid and hospitalization for themselves, including
19 the power to define the term "medically needy". Provided
20 ~~however--such~~ Such definition may not allow payment by a
21 county for general assistance-medical for persons whose
22 income exceeds ~~three---hundred---percent---(300%)~~ of the
23 limitation for obtaining regular county general relief
24 assistance.

25 (5) In any case where the county or state pays medical

1 expenses or hospitalization for an individual, the county or
2 state is subrogated to the claims of the physician or
3 hospital to the extent of payment."

4 Section 31. Section 71-311, R.C.M. 1947, is amended to
5 read as follows:

6 "71-311. Grants from state funds to counties. (1) If
7 the whole of ~~a-six-(6)-mill~~ the 13.5-mill levy together with
8 ~~the--whole--of--the--per--capita--tax~~ authorized by said section
9 71-106, and the income to the county poor fund from all
10 other sources ~~shall--prove~~ is inadequate to pay for the
11 general relief in the county actually necessary and to meet
12 the county's proportionate share of public assistance and
13 its proportionate share of any other ~~welfare~~ public
14 assistance activity that may be carried on jointly by the
15 state and the county, and if warrants upon the county poor
16 fund can no longer lawfully be issued to meet these charges
17 and if the board of county commissioners is unable to
18 declare an emergency for the purpose of providing additional
19 funds or to provide additional funds from any other source
20 and if the county has in all respects expended the county
21 poor fund only for lawful purposes, and if all of these
22 conditions ~~actually~~ exist in any county of the state, then
23 the state department shall, ~~in--so--far~~ insofar as it has
24 funds available, come to the assistance of such county, in
25 the following manner:

1 (2) When the county in question has submitted proof to
2 the state department, through such reports as it may require
3 and through other evidence that may be deemed considered
4 necessary, that these conditions exist, then the state
5 department ~~may authorize the state department~~ is authorized
6 to issue a check to the county treasurer of the county for
7 general relief purposes, and the county department of public
8 welfare shall make the disbursements of these state funds
9 for general relief purposes within the county. These
10 grants-in-aid from the state department may be used for any
11 relief activity lawfully conducted by the county, including
12 medical aid, hospitalization, and institutional care; but no
13 part thereof may be used, directly or indirectly, to pay for
14 the erection or improvement of any county building or for
15 furniture, fixtures, appliances, or equipment for any such
16 building.

17 (3) Immediately upon receiving notice that such
18 grant-in-aid has been made by the state department, ~~it shall~~
19 ~~be the duty of~~ the board of county commissioners to shall
20 adopt an emergency budget in accordance with the provisions
21 of section 16-1907 but ~~without being~~ are not required to
22 publish any notice of intention to adopt such emergency
23 budget or to hold a hearing thereon. This emergency budget
24 shall appropriate the whole amount of the general relief
25 grant from the state department for the various classes of

1 expenditures from the poor fund for which the grant-in-aid
2 was made by the state department. The money received through
3 such general relief grant from the state department shall be
4 placed in a special poor fund account kept separate and
5 distinct from the poor fund accounts arising under the
6 original poor fund budget, and all expenditures from this
7 special poor fund account shall be made by a separate series
8 of warrants or checks."

9 Section 32. Section 71-314, R.C.M. 1947, is amended to
10 read as follows:

11 "71-314. ~~Granting of assistance~~ Amount of general
12 relief assistance to be determined by county board. The
13 amount of general relief assistance granted any person or
14 family shall be determined by the county board of public
15 welfare according to the rules ~~and regulations~~ and standards
16 of assistance established by the state department."

17 Section 33. Section 71-501, R.C.M. 1947, is amended to
18 read as follows:

19 "71-501. "Dependent child" defined. (1) ~~(a)~~ The term
20 "dependent child" ~~for welfare~~ public assistance purposes,
21 means:

22 ~~(a)(i)~~ a child under the age of ~~eighteen~~ 18; or
23 ~~(b)(i)~~ a person under the age of ~~twenty-one~~ 21 who
24 is a student under the regulations prescribed by the state
25 department.

1 (b) Such ~~the~~ children child (A(a)(i) and or B (a)(ii)
 2 above) must be deprived of parental support or care by
 3 reason of the death, continued absence from the home,
 4 continued unemployment, or physical or mental incapacity of
 5 a parent, and ~~who is--living~~ be living with his father,
 6 mother, grandfather, grandmother, brother, sister,
 7 stepfather, stepmother, stepbrother, stepsister, uncle,
 8 aunt, nephew, niece, or first cousin, in a place of
 9 residence maintained by one or more of such relatives as his
 10 or their own home.

11 (2) Aid to dependent children may not be denied to or
 12 for the care of children who would otherwise be entitled to
 13 such aid under the laws of this state by the fact that the
 14 child is living in the home of his ~~or her~~ father, who is, in
 15 the opinion of the county board of public welfare of the
 16 appropriate county, either unemployable or who is honestly
 17 and responsibly seeking proper employment and is unable to
 18 find such employment ~~nor or~~ by the fact that the child is
 19 living in the home of a head of a household who is, at the
 20 time, receiving job training under the laws of this state;
 21 ~~nor shall~~ may the benefits which would otherwise accrue to
 22 the child for aid to dependent children under the laws of
 23 the state be reduced by reason of any such cause.

24 (3) Primary factors in determining whether a father is
 25 honestly and responsibly seeking employment include his

1 willingness to register for employment with the department
 2 of labor and industry, if that department has a
 3 representative in his county of residence, and his
 4 willingness to accept employment in which he is able to
 5 engage which will increase his ability to maintain himself
 6 and his family.

7 (4) The state department ~~of--social--and--rehabilitation~~
 8 ~~services~~ may establish additional criteria for determining
 9 whether a father is honestly and responsibly seeking
 10 employment."

11 Section 34. Section 71-509, R.C.M. 1947, is amended to
 12 read as follows:

13 "71-509. Periodic reconsideration and changes in
 14 amount of assistance -- appointment of guardian or payment
 15 to another person. (1) All assistance grants made under this
 16 chapter shall be reconsidered by the county department as
 17 frequently as may be required by the rules of the state
 18 department. After such further investigation as the county
 19 department may ~~deem~~ consider necessary or the state
 20 department may require, the amount of assistance may be
 21 changed or assistance may be entirely withdrawn if the state
 22 or county departments find that the child's circumstances
 23 have altered sufficiently to warrant such action, ~~provided,~~
 24 ~~however--that--if~~ If the county department, after
 25 investigation, finds that any recipient is not utilizing the

grant adequately for the needs of the child or children, or is dissipating such grant, or refuses or fails to accept employment or training, and payments made to him would not be used in the best interests of the child or children, the county department may request the county attorney to file a petition in the district court for the appointment of such recipient as guardian of the assistance grant in behalf of the child or children. Such petition shall set forth the facts warranting such appointment. Notice of the hearing on such petition shall be served upon the recipient and the county department not less than five--{5} days before the date set for such hearing; such petition may be filed with the clerk of the district court and all process issued and served without payment of costs. If upon the hearing of such petition the court is satisfied that it is for the best interests of the child or children, and all parties concerned, that such guardian be appointed, he shall order such appointment, and may require such guardian to render to the court a detailed itemized account of expenditures of such assistance payments at such times as the court may deem ~~considers~~ advisable.

{2} It is the intention of this act ~~section~~ that the guardianship herein provided for shall be a special and limited guardianship solely for the purpose of safeguarding the assistance grants made to dependent children. Such

guardianship shall terminate upon the termination of such assistance grant, or sooner on order of the court, upon good cause shown. In lieu of ~~said~~ guardianship proceedings, payments may be made in behalf of the child or children to another person found by the county department to be interested in or concerned with the welfare of such needy child or children in accordance with the rules and ~~regulations~~ established by the state department. Before such payments may be paid to such other person, such person shall give a bond, with adequate corporate surety and in form to be approved by the state department, running in favor of the needy individual and the state of Montana, conditioned upon the faithful use by such other person of the funds for the welfare of the needy individual. Such bond shall be in an amount equal to six times the amount of the monthly payment involved.

~~{3} Providing--however--when~~ When federal law or regulations permit--that ~~require~~ any amount in a sum not exceeding one hundred dollars--~~{100.00}~~--in any one--~~{1}~~--calendar year received by an enrolled member of a recognized Indian tribe as per capita payments or a share in the profits and receipts from tribal lands and interests or tribal enterprises ~~shall~~ may not be used to decrease the amount of assistance received under this act. ~~Before--such payments may be paid to such other person, such person shall~~

~~give--a--bond, with adequate corporate surety and in form to be approved by the state department, running in favor of the needy individual and the state of Montana conditioned upon the faithful use by such other person of the funds for the welfare of the said needy individual. Such bond shall be in an amount equal to six (6) times the amount of the monthly payment involved."~~

Section 35. Section 71-710, R.C.M. 1947, is amended to read as follows:

"71-710. Child rehabilitation. The state department shall:

~~(1) Enforce~~ enforce all laws pertaining to children and take the initiative in all matters involving the interest of illegitimate, dependent, neglected, and delinquent children where adequate provision therefor has not been made by law; ~~and to~~

~~(2) use funds available for cases where special medical or material assistance is necessary to rehabilitate subnormal or physically handicapped children and where it is not otherwise provided for by law; and to operate~~

~~(3) cooperate~~ cooperate for the purposes hereof with all reputable ~~child-helping~~ child-helping and ~~child-placing~~ child-placing agencies; ~~and~~

~~(4) inspect~~ inspect, license, and supervise public and private infants' homes, ~~and child-caring~~ child-caring

and ~~child-placing~~ child-placing institutions and agencies."

Section 36. Section 71-901, R.C.M. 1947, is amended to read as follows:

"71-901. ~~Receipt of funds~~ State treasurer to receive funds. The treasurer of the state of Montana is hereby designated as the appropriate fiscal officer of the state to receive federal funds. All money for public assistance purposes appropriated by the legislature ~~for public welfare purposes~~, ~~all money~~ received from the United States government ~~for public welfare purposes~~, ~~and all money or~~ received from any other source ~~for the purposes set forth in the Public Welfare Act~~ shall be paid into the state treasury to the credit of the state department."

Section 37. Section 71-1401, R.C.M. 1947, is amended to read as follows:

"71-1401. Definitions. As used in this act ~~the following definitions apply:~~

(1) "Vocational rehabilitation" and "vocational rehabilitation services" mean any services, provided directly or through public or private instrumentalities, found by the state department ~~of social and rehabilitation services~~ to be necessary to compensate a blind individual for his employment handicap, and to enable him to engage in a remunerative occupation including, but not limited to, medical and vocational diagnosis, vocational guidance,

1 counseling and placement, rehabilitation training, physical
2 restoration, transportation, occupational and business
3 licenses, tools, equipment, initial stocks and supplies,
4 including livestock, capital advances, maintenance, and
5 training books and materials.

6 (2) "Rehabilitation services" means any services,
7 provided directly or through public or private
8 instrumentalities, found by the state department of ~~society~~
9 ~~and-rehabilitation-services~~ to be necessary to compensate a
10 blind individual for his employment handicap or to enable
11 him to achieve the maximum degree of self-care and to engage
12 in productive tasks.

13 (3) "Rehabilitation training" means all necessary
14 training provided to a blind individual to compensate for
15 his employment handicap, including, but not limited to,
16 manual, preconditioning prevocational, and supplementary
17 training and training provided for the purpose of achieving
18 broader or more remunerative skills and capacities.

19 (4) "Physical restoration" means any medical,
20 surgical, or therapeutic treatment necessary to correct or
21 substantially reduce a blind individual's employment
22 handicap within a reasonable length of time, including, but
23 not limited to, medical, psychiatric, dental, and surgical
24 treatment, nursing services, hospital care, convalescent
25 home care, drugs, medical and surgical supplies, and

1 prosthetic appliances, but excluding curative treatment for
2 acute or transitory conditions.

3 (5) "Prosthetic appliance" means an artificial device
4 necessary to support or take the place of a part of the body
5 or to increase the acuity of a sense organ.

6 (6) "Occupational licenses" means a license, permit,
7 or other written authority required by any governmental unit
8 to be obtained in order to engage in an occupation.

9 (7) "Business licenses" means any license, permit, or
10 other written authority required by any governmental unit to
11 be obtained in order to engage in a business.

12 (8) "Maintenance" means money payments not exceeding
13 the estimated cost of subsistence during the provision of
14 vocational rehabilitation and rehabilitation services.

15 (9) "Blind individual" means an individual whose
16 central visual acuity does not exceed 20/200 in the better
17 eye with correcting lenses, or whose visual acuity is
18 greater than 20/200 but is accompanied by a limitation in
19 the fields of vision such that the widest diameter of the
20 visual field subtends an angle no greater than 20 degrees,
21 or who has other eye conditions which render vision equally
22 defective, or who has an eye condition which will cause
23 blindness."

24 Section 38. Section 71-1516, R.C.M. 1947, is amended
25 to read as follows:

1 "71-1516. Eligibility requirements for---medical
2 assistance. Medical assistance shall be granted in behalf of
3 all persons;

4 (1) who reside in the state of Montana, including
5 residents temporarily absent from the state; and

6 (2) who meet any of the following requirements:

7 (a) Who receive all or part of their income from
8 the ~~federally-aided~~ federally-aided public assistance
9 programs: old-age assistance, aid to the blind, aid to
10 dependent children, and aid to the permanently and totally
11 disabled;

12 (b) ~~Att--persons--who~~ upon application, would be
13 eligible for financial assistance under any one of the
14 ~~federally-aided~~ federally-aided programs referred to above;

15 (c) ~~Att--persons--who~~ would be entitled to financial
16 assistance under one of the ~~federally-aided~~ federally-aided
17 categories except that they do not meet the durational
18 residence requirements or relative responsibility
19 requirements of any of the public assistance programs above
20 enumerated;

21 (d) ~~Persons are~~ in medical institutions ~~who~~ and if
22 they were no longer in such institutions, would be eligible
23 for financial assistance under one of the above programs;

24 (e) ~~Att--children are~~ under twenty-one ~~who~~ 21 years
25 ~~or age and~~ meet the conditions of eligibility in the state's

1 plan for aid to dependent children, other than with respect
2 to school attendance;

3 (f) ~~Att--children are~~ under twenty-one ~~who--are~~ 21
4 years of age and in foster care under the supervision of the
5 state;

6 (g) ~~Att--persons--whose~~ have income is less than one
7 hundred-thirty-three-and-one-third-per--cent--~~(133 1/3%)~~ of
8 the amounts specified as maximum income levels for ~~federally~~
9 ~~aided~~ federally-aided categories of assistance;

10 (h) ~~Att--medically--needy--children are~~ under
11 twenty-one ~~(21)~~ years of age and medically needy, as defined
12 by the state department of social and rehabilitation
13 services; or

14 (i) ~~Att--children are~~ under twenty-one ~~(21)~~ years of
15 age, who were in foster care under the supervision of the
16 state, and who have been adopted as "hard-to-place"
17 children."

18 Section 39. Section 71-1903, R.C.M. 1947, is amended
19 to read as follows:

20 "71-1903. Application for protective services --
21 ~~contents--department--as-guardian-or-trustee--decision--as-to~~
22 ~~eligibility.~~ (1) Protective services may be provided on a
23 voluntary basis for any developmentally disabled person who
24 requests them for himself or at the request of any
25 interested person when the department determines that such

1 person is a developmentally disabled person who would
 2 benefit from services provided in this act, and that the
 3 department is currently able to supply services to such
 4 person. A parent may name the department as guardian of the
 5 ~~mentally~~ developmentally disabled person in his will. A
 6 parent may also name the department as guardian or trustee
 7 of the ~~mentally~~ developmentally disabled person, to assume
 8 such duties during the ~~parents~~ parent's lifetime. Voluntary
 9 services may be discontinued upon the written request of the
 10 ward or any personal representative of the ward.

11 (c) Application for protective services under this act
 12 shall be made to the designated field staff of the
 13 department or other designated state agency in the county in
 14 which the applicant resides, and the application shall be
 15 transmitted promptly to the department. Such application
 16 shall be in writing or reduced to writing in the manner and
 17 upon the form prescribed by the department and shall contain
 18 the name, age, and residence of the applicant and such other
 19 information as may be required by the rules ~~and regulations~~
 20 of the department. The rules ~~and regulations~~ of the
 21 department shall simplify the application process in order
 22 that protective services may be furnished as soon as
 23 possible. Adequate safeguards shall be established by the
 24 department to insure that only eligible persons receive
 25 protective services under this act. The department shall

1 notify the applicant and the designated field staff of the
 2 department or other designated state agency in writing of
 3 its decision concerning eligibility for protective
 4 services."

5 Section 40. Section 71-2304, R.C.M. 1947, is amended
 6 to read as follows:

7 "71-2304. Definitions. As used in this act ~~the~~
 8 following definitions apply:

9 (1) "Department" means the department of social and
 10 rehabilitation services.

11 (2) "Adult foster family care homes" means private
 12 homes owned by one or more persons ~~over-the-age-of-eighteen~~
 13 {18} years of age or older which offer light personal care
 14 or custodial care to aged persons or disabled adults who are
 15 not related to the owner by blood or marriage.

16 (3) "Aged person" means a person defined by the
 17 department as aged.

18 (4) "Disabled adult" means a person ~~over-the-age-of~~
 19 eighteen---{18} years of age or older defined by the
 20 department as disabled.

21 (5) "Light personal care" means assisting the aged
 22 person or disabled adult in accomplishing such personal
 23 hygiene tasks as bathing, dressing, hair grooming, and
 24 supervision of prescriptive medicine administration but not
 25 administration of prescriptive medications.

1 (6) "Custodial care" means providing a sheltered
2 ~~family--type~~ family-type setting for an aged person or
3 disabled adult so as to provide for ~~their~~ his basic needs of
4 food, ~~and~~ shelter and having a specific person available to
5 help ~~them~~ him meet ~~their~~ his basic needs.

6 (7) "Skilled nursing care" means ~~twenty-four-(24)-hour~~
7 24-hour care supervised by a registered nurse or a licensed
8 practical nurse under orders of an attending physician."

9 Section 41. Section 71-2404, R.C.M. 1947, is amended
10 to read as follows:

11 "71-2404. ~~Rules--and--regulations~~ Department to adopt
12 rules. The department shall control developmental
13 disabilities programs which receive any state assistance by
14 adopting ~~rules~~ for providing developmental disabilities
15 facilities and services. It shall set minimum standards for
16 programs ~~and~~ establish appropriate qualifications ~~and~~
17 compensation scales ~~and~~ personnel policies for persons
18 employed in such programs. All developmental disabilities
19 facilities and services shall comply with existing federal
20 guidelines and with requirements which will enable the
21 services and facilities to qualify for available aid funds.
22 However, nothing herein ~~shall--imply--the--necessity--for~~
23 requires facilities serving the developmentally disabled to
24 meet the same or equal standards as licensed medical
25 facilities, unless the developmental disabilities facility

1 is providing professional or skilled medical care."

2 Section 42. Section 71-2405, R.C.M. 1947, is amended
3 to read as follows:

4 "71-2405. Community services. (1) The department may
5 establish and administer community comprehensive services,
6 programs, clinics ~~and~~ or other facilities throughout the state
7 for the purpose of aiding in the prevention, diagnosis,
8 amelioration ~~and~~ or treatment of developmental disabilities.
9 Programs, clinics ~~and~~ or other services may be provided
10 directly by state agencies ~~and~~ or indirectly through contract
11 or ~~co-operative~~ cooperative arrangements with other agencies
12 of government, regional or local, private or public
13 agencies, ~~or~~ private professional persons ~~and~~ or in accredited
14 health or ~~long-term~~ long-term care facilities.

15 (2) Comprehensive services, programs, clinics ~~and~~ or
16 other facilities established or provided by the department
17 under this chapter shall conform ~~as nearly as possible~~ to
18 the plans of the advisory council created under 71-2406 ~~and~~
19 the regional councils provided for in 71-2407."

20 Section 43. Section 80-1405, R.C.M. 1947, is amended
21 to read as follows:

22 "80-1405. Powers and duties of department. The
23 department shall:

24 (1) ~~Adopt~~ adopt rules for the admission, custody,
25 transfer, and release of residents of institutions except as

1 otherwise provided by law; ~~However however~~, no such rules
2 ~~shall~~ may amend or alter the statutory powers and duties of
3 the state board of pardons; ~~i~~

4 (2) ~~Subject subject~~ to the functions of the department
5 of administration, lease or purchase lands for use by
6 institutions, and classify those lands to determine which
7 are of such character as to be most profitably used for
8 agricultural purposes, taking into consideration the needs
9 of all institutions for the food products that can be grown
10 or produced on the lands, and the relative value of
11 agricultural programs in the treatment or rehabilitation of
12 the persons confined in the institutions; ~~i~~

13 (3) ~~Utilize utilize~~ the staff and services of other
14 state agencies and units of the ~~university--of~~ Montana
15 ~~university system~~, within their respective statutory
16 functions, to carry out ~~the--purposes--of--this--act; its~~
17 functions under this title;

18 (4) ~~Propose propose~~ programs to the ~~legislative~~
19 ~~assembly legislature~~ to meet the projected long-range needs
20 of institutions, including programs and facilities for the
21 diagnosis, treatment, care, and aftercare of persons placed
22 in institutions; ~~i~~ and

23 (5) ~~Encourage encourage~~ the establishment of programs
24 at the local level for the prevention and rehabilitation of
25 physical and mental disability."

1 Section 44. Section 80-1410, R.C.M. 1947, is amended
2 to read as follows:

3 "80-1410. Establishment of juvenile correctional
4 facilities. The department, within the annual or ~~biannual~~
5 biennial budgetary appropriation, may establish, maintain,
6 and operate facilities to properly diagnose, care for,
7 train, educate, and rehabilitate children in need of these
8 services. The children must be ~~ten--{10}~~ years of age or
9 older and under ~~twenty-one--{21}~~ years of age. The facilities
10 include but are not limited to the Mountain View school, the
11 Pine Hills school, and the youth forest camp."

12 Section 45. Section 80-1413, R.C.M. 1947, is amended
13 to read as follows:

14 "80-1413. Participation by ~~governing---boards~~
15 ~~institutions~~ in research programs. The department may direct
16 a penal, ~~and~~ corrective--or--custodial institution of the
17 state to participate in and ~~co-operate~~ cooperate with
18 programs of research and development being conducted and
19 carried on by any units of the Montana university system, by
20 any of the other educational institutions of the state of
21 Montana, or by any foundation or agency thereof, in the
22 fields of science, health, education, and natural resources.
23 These programs may include the voluntary participation of
24 the inmates of the institution in testing and experimental
25 work conducted as a part thereof. Any funds received from

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1 the authorized programs may be shared with the participating
2 inmates or otherwise held and used for the welfare and
3 rehabilitation thereof, and ~~shall~~ may not become a part of
4 the regular budgeted operation of the institution."

5 Section 46. Section 80-1603, R.C.M. 1947, is amended
6 to read as follows:

7 "80-1603. ~~Monthly assessment of charges annual~~
8 ~~computation of rate investigation claim of~~
9 ~~state review deposit of receipts~~ Computation of per diem
10 rate, monthly assessment, and disposition of receipts.

11 (1) The department shall assess monthly against each
12 resident or responsible person, the full per diem charge, a
13 proportionate share of the per diem charge, or no per diem
14 charge, plus full ancillary charge, a proportionate share of
15 the ancillary charge, or no ancillary charge, based upon
16 financial information given to the department during its
17 investigation. The per diem shall be computed on July 1 of
18 each year by the department.

19 (2) An assessment made by the department under this
20 section shall be based on the resident's or responsible
21 person's ability to pay. The department ~~shall~~ may not make
22 an assessment which would place an undue financial burden on
23 the resident or the responsible person.

24 (3) For the purpose of these investigations, every
25 agency of the state is required to render all reasonable

1 assistance to the department in obtaining all information
2 necessary for the proper implementation of the purposes of
3 this investigation. A representative of the department, duly
4 authorized by the director, may administer oaths, take
5 testimony, and subpoena and compel the attendance of
6 witnesses and the production of books, papers, records, and
7 documents in connection with the duty of securing payments
8 for support as provided by this act. A person who fails to
9 obey the subpoena, upon petition of the department, to any
10 judge of the district court of the state, may be ordered by
11 the judge to appear and show cause for his disobedience of
12 the subpoena. The judge, after the hearing, may order that
13 the subpoena be obeyed, or, if it is made to appear to the
14 judge that the subpoena was for any reason inappropriately
15 issued, may dismiss the petition. A person who fails to obey
16 the subpoena when ordered to do so by the judge may be
17 punished for contempt of court on application of the
18 district court by the department.

19 (4) The state has a claim against the estate of a
20 patient and against the estate of a responsible person, for
21 an amount due to the state at the date of death of the
22 resident or the responsible person. The claim against the
23 estate of a responsible person does not have priority
24 against the estate for the amount necessary to rear and
25 educate surviving children of the responsible person.

1 (5) The attorney general shall collect any claim which
2 the state may have against such estate. This claim may not
3 be enforced against any real estate while it is occupied as
4 a home by the surviving spouse or of the resident or
5 responsible person.

6 (6) If a resident or responsible person disagrees with
7 the determination of the department as to the ability of the
8 resident or responsible person to pay any part of the per
9 diem or ancillary charge, an appeal may be filed within
10 thirty-(30) days of the determination with the board of
11 institutions. If the resident disagrees with the
12 determination of the appeal by the board of-institutions, an
13 appeal may be filed in any court of record in Montana having
14 jurisdiction of the resident or responsible person liable
15 for the payment.

16 (7) The department may at any time review and change
17 a determination for per diem or ancillary charge payments.
18 In any case, however, a resident of an institution may not
19 be released by reason of the nonpayment of the per diem or
20 the ancillary charge if in the judgment of the
21 superintendent of the institution at which he is a resident,
22 this release is medically inadvisable.

23 (8) A per diem payment received by the department
24 shall be deposited in the state treasury to the credit of
25 the general fund."

1 Section 47. Section 80-1912, R.C.M. 1947, is amended
2 to read as follows:

3 "80-1912. Expense of trial for escape offenses
4 committed in prison. Whenever a trial takes place of any
5 person under any of the provisions of ~~section~~ 94-7-306 and
6 whenever a prisoner in the state prison ~~shall be~~ is tried
7 for any crime committed therein, the county clerk of the
8 county where such trial is ~~had held~~ shall make out a
9 statement of all the costs incurred by the county for the
10 trial of such case and of guarding and keeping such
11 prisoner, properly certified by a district judge of said
12 county, which statement shall be sent to the ~~board of state~~
13 ~~prison-commissioners~~ department of institutions for their
14 ~~its~~ approval and after such approval, ~~said--board the~~
15 ~~department~~ must cause the amount of such costs to be paid
16 out of the money appropriated for the support of the state
17 prison to the county treasurer of the county where such
18 trial was ~~had held~~."

19 Section 48. Section 80-2412, R.C.M. 1947, is amended
20 to read as follows:

21 "80-2412. Interstate compact on mental health enacted
22 -- text. The ~~interstate compact on mental health~~ Interstate
23 Compact on Mental Health as contained herein is hereby
24 enacted into law and entered into by this state with all
25 other jurisdiction legally joining therein in the form

1 substantially as follows:

2 The contracting states solemnly agree, that:

3 Article I

4 ~~Article--I~~ The party states find that the proper and
5 expeditious treatment of the mentally ill and mentally
6 deficient can be facilitated by ~~co-operative~~ cooperative
7 action, to the benefit of the patients, their families, and
8 society as a whole. Further, the party states find that the
9 necessity of and desirability for furnishing such care and
10 treatment bears no primary relation to the residence or
11 citizenship of the patient but that, on the contrary, the
12 controlling factors of community safety and humanitarianism
13 require that facilities and services be made available for
14 all who are in need of them. Consequently, it is the purpose
15 of this compact and of the party states to provide the
16 necessary legal basis for the institutionalization or other
17 appropriate care and treatment of the mentally ill and
18 mentally deficient under a system that recognizes the
19 paramount importance of patient welfare and to establish the
20 responsibilities of the party states in terms of such
21 welfare.

22 Article II

23 ~~Article--II~~ As used in this compact:

24 (a)(1) "Sending ~~sending~~ state" shall--mean means a
25 party state from which a patient is transported pursuant to

1 the provisions of the compact or from which it is
2 contemplated that a patient may be so sent*i*

3 (b)(2) "Receiving ~~receiving~~ state" shall--mean means a
4 party state to which a patient is transported pursuant to
5 the provisions of the compact or to which it is contemplated
6 that a patient may be so sent*i*

7 (c)(3) "Institution ~~institution~~" shall--mean means any
8 hospital or other facility maintained by a party state or
9 political subdivision thereof for the care and treatment of
10 mental illness or mental deficiency*i*

11 (d)(4) "Patient ~~patient~~" shall--mean means any person
12 subject to or eligible, as determined by the laws of the
13 sending state, for institutionalization or other care,
14 treatment, or supervision pursuant to the provisions of this
15 compact*i*

16 (e)(5) "Aftercare ~~aftercare~~" shall--mean means care,
17 treatment, and services provided a patient, as defined
18 herein, on convalescent status or conditional release*i*

19 (f)(6) "Mental ~~mental~~ illness" shall--mean means mental
20 disease to such extent that a person so afflicted requires
21 care and treatment for his own welfare, or the welfare of
22 others, or of the community*i*

23 (g)(7) "Mental ~~mental~~ deficiency" shall--mean means
24 mental deficiency as defined by appropriate clinical
25 authorities to such extent that a person so afflicted is

1 incapable of managing himself and his affairs, but shall not
2 include mental illness as defined herein; and

3 (n)(8) "State state" shall--mean means any state,
4 territory, or possession of the United States, the District
5 of Columbia, and the Commonwealth of Puerto Rico.

6 Article III

7 Article--III--(a)(1) Whenever a person physically
8 present in any party state shall be in need of
9 institutionalization by reason of mental illness or mental
10 deficiency, he shall be eligible for care and treatment in
11 an institution in that state irrespective of his residence,
12 settlement, or citizenship qualifications.

13 (b)(2) The provisions of ~~paragraph (a)~~ subsection (1)
14 of this article to the contrary notwithstanding, any patient
15 may be transferred to an institution in another state
16 whenever there are factors based upon clinical
17 determinations indicating that the care and treatment of
18 said patient would be facilitated or improved thereby. Any
19 such institutionalization may be for the entire period of
20 care and treatment or for any portion or portions thereof.
21 The factors referred to in this ~~paragraph~~ subsection shall
22 include the patient's full record with due regard for the
23 location of the patient's family, character of the illness
24 and probable duration thereof, and such other factors as
25 shall be considered appropriate.

1 (c)(3) No state shall be obliged to receive any
2 patient pursuant to the provisions of ~~paragraph (b)~~
3 subsection (2) of this article unless the sending state has
4 given gives advance notice of its intention to send the
5 patient; furnished furnishes all available medical and
6 other pertinent records concerning the patient; given gives
7 the qualified medical or other appropriate clinical
8 authorities of the receiving state an opportunity to examine
9 the patient if said authorities so wish; and unless the
10 receiving state shall--agree agrees to accept the patient.

11 (d)(4) In the event that the laws of the receiving
12 state establish a system of priorities for the admission of
13 patients, an interstate patient under this compact shall
14 receive the same priority as a local patient and shall be
15 taken in the same order and at the same time that he would
16 be taken if he were a local patient.

17 (e)(5) Pursuant to this compact, the determination as
18 to the suitable place of institutionalization for a patient
19 may be reviewed at any time and such further transfer of the
20 patient may be made as seems likely to be in the best
21 interest of the patient.

22 Article IV

23 Article--IV--(a)(1) Whenever, pursuant to the laws of
24 the state in which a patient is physically present, it shall
25 be determined that the patient should receive aftercare or

1 supervision, such care or supervision may be provided in a
 2 receiving state. If the medical or other appropriate
 3 clinical authorities having responsibility for the care and
 4 treatment of the patient in the sending state shall have
 5 reason to believe that aftercare in another state would be
 6 in the best interest of the patient and would not jeopardize
 7 the public safety, they shall request the appropriate
 8 authorities in the receiving state to investigate the
 9 desirability of affording the patient such aftercare in said
 10 receiving state, and such investigation shall be made with
 11 all reasonable speed. The request for investigation shall
 12 be accompanied by complete information concerning the
 13 patient's intended place of residence and the identity of
 14 the person in whose charge it is proposed to place the
 15 patient, the complete medical history of the patient, and
 16 such other documents as may be pertinent.

17 ~~(b)(2)~~ If the medical or other appropriate clinical
 18 authorities having responsibility for the care and treatment
 19 of the patient in the sending state and the appropriate
 20 authorities in the receiving state find that the best
 21 interest of the patient would be served thereby, and if the
 22 public safety would not be jeopardized thereby, the patient
 23 may receive aftercare or supervision in the receiving state.
 24 ~~(c)(1)~~ In supervising, treating, or caring for a
 25 patient on aftercare pursuant to the terms of this article,

1 a receiving state shall employ the same standards of
 2 visitation, examination, care, and treatment that it
 3 employs for similar local patients.

4 Article V

5 ~~Article-V~~ Whenever a dangerous or potentially
 6 dangerous patient escapes from an institution in any party
 7 state, that state shall promptly notify all appropriate
 8 authorities within and without the jurisdiction of the
 9 escapee in a manner reasonably calculated to facilitate the
 10 speedy apprehension of the escapee. Immediately upon the
 11 apprehension and identification of any such dangerous or
 12 potentially dangerous patient, he shall be detained in the
 13 state where found pending disposition in accordance with
 14 law.

15 Article VI

16 ~~Article-VI~~ The duly accredited officers of any state
 17 party to this compact, upon the establishment of their
 18 authority and the identity of the patient, shall be
 19 permitted to transport any patient being moved pursuant to
 20 this compact through any and all states party to this
 21 compact, without interference.

22 Article VII

23 ~~Article-VII~~ ~~(a)(1)~~ No person shall be deemed a patient
 24 of more than one ~~(1)~~ institution at any given time.
 25 Completion of transfer of any patient to an institution in a

1 receiving state shall have the effect of making the person a
2 patient of the institution in the receiving state.

3 (b)(2) The sending state shall pay all costs of and
4 incidental to the transportation of any patient pursuant to
5 this compact, but any two (2) or more party states may, by
6 making a specific arrangement for that purpose, arrange for
7 a different allocation of costs as among themselves.

8 (c)(3) No provision of this compact shall be construed
9 to alter or affect any internal relationships among the
10 departments, agencies, and officers of and in the government
11 of a party state, or between a party state and its
12 subdivisions, as to the payment of costs, or
13 responsibilities therefor.

14 (d)(4) Nothing in this compact shall be construed to
15 prevent any party state or subdivision thereof from
16 asserting any right against any person, agency, or other
17 entity in regard to costs for which such party state or
18 subdivision thereof may be responsible pursuant to any
19 provision of this compact.

20 (e)(5) Nothing in this compact shall be construed to
21 invalidate any reciprocal agreement between a party state
22 and a nonparty state relating to institutionalization, care,
23 or treatment of the mentally ill or mentally deficient, or
24 any statutory authority pursuant to which such agreements
25 may be made.

Article VIII

2 ~~Article VIII--(a)(1)~~ Nothing in this compact shall be
3 construed to abridge, diminish, or in any way impair the
4 rights, duties, and responsibilities of any patient's
5 guardian on his own behalf or in respect of any patient for
6 whom he may serve, except that, where the transfer of any
7 patient to another jurisdiction makes advisable the
8 appointment of a supplemental or substitute guardian, any
9 court of competent jurisdiction in the receiving state may
10 make such supplemental or substitute appointment and the
11 court which appointed the previous guardian shall, upon
12 being duly advised of the new appointment, and upon the
13 satisfactory completion of such accounting and other acts as
14 such court may by law require, relieve the previous guardian
15 of power and responsibility to whatever extent shall be
16 appropriate in the circumstances, ~~provided, however, that~~
17 ~~in~~ In the case of any patient having settlement in the
18 sending state, the court of competent jurisdiction in the
19 sending state shall have the sole discretion to relieve a
20 guardian appointed by it or continue his power and
21 responsibility, whichever it shall deem advisable. The court
22 in the receiving state may, in its discretion, confirm or
23 reappoint the person or persons previously serving as
24 guardian in the sending state in lieu of making a
25 supplemental or substitute appointment.

~~(b)(2)~~ The term "guardian" as used in ~~paragraph--(a)~~ subsection (1) of this article shall include any guardian, trustee, legal committee, conservator, or other person or agency however denominated who is charged by law with power to act for or responsibility for the person or property of a patient.

Article IX

~~Article IX--(a)(1)~~ No provisions of this compact except Article V shall apply to any person institutionalized while under sentence in a penal or correctional institution or while subject to trial on a criminal charge, or whose institutionalization is due to the commission of an offense for which, in the absence of mental illness or mental deficiency, said person would be subject to incarceration in a penal or correctional institution.

~~(b)(2)~~ To every extent possible, it shall be the policy of states party to this compact that no patient shall be placed or detained in any prison, jail, or lockup, but such patient shall, with all expedition, be taken to a suitable institutional facility for mental illness or mental deficiency.

Article X

~~Article X--(a)(1)~~ Each party state shall appoint a "compact administrator" who, on behalf of his state, shall act as general co-ordinator coordinator of activities under

the compact in his state and who shall receive copies of all reports, correspondence, and other documents relating to any patient processed under the compact by his state either in the capacity of a sending or receiving state. The compact administrator or his duly designated representative shall be the official with whom other party states shall deal in any matter relating to the compact or any patient processed thereunder.

~~(b)(2)~~ The compact administrators of the respective party states shall have power to promulgate reasonable rules ~~and regulations~~ to carry out more effectively the terms and provisions of this compact.

Article XI

~~Article XI--(a)~~ The duly constituted administrative authorities of any two ~~(2)~~ or more party states may enter into supplementary agreements for the provision of any service or facility or for the maintenance of any institution on a joint or ~~co-operative~~ cooperative basis whenever the states concerned ~~shall~~ find that such agreements will improve services, facilities, or institutional care and treatment in the fields of mental illness or mental deficiency. No such supplementary agreement shall be construed so as to relieve any party state of any obligation which it otherwise would have under other provisions of this compact.

1 Article XII

2 ~~Article XII~~ This compact shall enter into full force
3 and effect as to any state when enacted by it into law, and
4 such state shall thereafter be a party thereto with any and
5 all states legally joining therein.

6 Article XIII

7 ~~Article XIII~~ (1) A state party to this compact may
8 withdraw therefrom by enacting a statute repealing the same.
9 Such withdrawal shall take effect one (1) year after notice
10 thereof has been communicated officially and in writing to
11 the governors and compact administrators of all other party
12 states. However, the withdrawal of any state shall not
13 change the status of any patient who has been sent to said
14 state or sent out of said state pursuant to the provisions
15 of the compact.

16 (b) (2) Withdrawal from any agreement permitted by
17 Article VII (b) (2) as to costs or from any supplementary
18 agreement made pursuant to Article XI shall be in accordance
19 with the terms of such agreement.

20 Article XIV

21 ~~Article XIV~~ (1) This compact shall be liberally
22 construed so as to effectuate the purposes thereof. The
23 provisions of this compact shall be severable and if any
24 phrase, clause, sentence, or provision of this compact is
25 declared to be contrary to the constitution of any party

1 state or of the United States or the applicability thereof
2 to any government, agency, person, or circumstance is held
3 invalid, the validity of the remainder of this compact and
4 the applicability thereof to any government, agency, person,
5 or circumstance shall not be affected thereby. If this
6 compact shall be held contrary to the constitution of any
7 party thereto, the compact shall remain in full force and
8 effect as to the remaining states and in full force and
9 effect as to the state affected as to all severable matters.

10 (2) The director of the department of institutions,
11 hereafter called "the director", shall be the compact
12 administrator and shall have the power to make any rules and
13 regulations necessary for the administration of this
14 article. The director shall ~~co-operate~~ cooperate with all
15 departments, agencies, and officers of the state and any
16 political subdivision thereof to facilitate the proper
17 administration of the ~~interstate compact on mental health~~
18 Interstate Compact on Mental Health or of any supplementary
19 agreement or agreements entered into by this state
20 thereunder.

21 (3) The director may enter into supplementary
22 agreements with appropriate officials of other states
23 pursuant to Articles VII and XI of the compact.

24 (4) The department of institutions in its annual
25 budget shall include such amounts necessary to discharge the

1 financial obligations incurred by it to carry out the
2 purposes of the ~~interstate compact on mental health~~
3 Interstate Compact on Mental Health, and the general
4 assembly shall appropriate such sums necessary therefor.

5 (5) The compact administrator is hereby directed to
6 consult with the immediate family of any proposed transferee
7 and, in the case of a proposed transferee from an
8 institution in this state to an institution in another party
9 state, to make no transfer out of the state without approval
10 of the district or probate court. Before granting such
11 approval the court shall hold such hearings as it deems
12 considers appropriate. In addition, the court shall
13 designate some appropriate person to deliver written notice
14 of the proposed transferee's right to a hearing to the
15 proposed transferee and his guardian ad litem. The person
16 serving such notices shall make a written return to the
17 court that such has been done. At the conclusion of such
18 hearing, if any, the court may approve the proposed
19 transfer, order the release of the proposed transferee, or
20 enter any other suitable order.

21 (6) Duly authenticated copies of the article shall
22 upon its approval, be transmitted by the secretary of state
23 to the governor of each state, the attorney general, and the
24 secretary of state of the United States, and the Council of
25 State Governments."

1 Section 49. Section 80-2701, R.C.M. 1947, is amended
2 to read as follows:

3 "80-2701. ~~Purpose and intent of act~~ policy of state
4 Legislative purpose. It is the purpose of this act and the
5 policy of this state to recognize ~~etcohol~~ alcoholism and
6 drug dependence as problems affecting the health, safety,
7 morals, economy, and general welfare of this state; to
8 recognize ~~etcohol~~ alcoholism and drug dependence as problems
9 subject to treatment; and to recognize the sufferer of
10 ~~etcohol~~ alcoholism, drug dependence, or both, as worthy of
11 treatment and rehabilitation. It is the intent of this act
12 to establish means whereby the appropriate resources of this
13 state may be focused fully and effectively upon the problems
14 of ~~etcohol~~ alcoholism and drug dependence and utilized in
15 implementing programs for the control and treatment of these
16 problems."

17 Section 50. Section 80-2702, R.C.M. 1947, is amended
18 to read as follows:

19 "80-2702. Duties of department -- department
20 authorized to accept gifts -- enter into contracts --
21 acquire and dispose of property. (1) The department of
22 institutions, hereafter referred to as department in this
23 chapter, shall:

24 (a) ~~Plan plan~~, promote, and assist in the support of
25 ~~etcohol~~ alcoholism and drug dependence prevention,

1 treatment, and control programs;

2 (b) ~~Conduct~~ ~~conduct~~, sponsor, and support research,
3 investigations, and studies, including evaluation, of all
4 phases of ~~alcohol~~ ~~alcoholism~~ and drug dependence;

5 (c) ~~Assist~~ ~~assist~~ the development of educational and
6 training programs relative to ~~alcohol~~ ~~alcoholism~~ and drug
7 dependence, and carry on programs to assist the public, and
8 technical and professional groups, in becoming fully
9 informed about ~~alcohol~~ ~~alcoholism~~ and drug dependence;

10 (d) ~~Promote~~ ~~promote~~, develop, and assist, financially
11 and otherwise, ~~alcohol~~ ~~alcoholism~~ and drug dependence
12 programs administered by other state agencies, local
13 government agencies, and private nonprofit organizations and
14 agencies; and

15 (e) ~~Encourage~~ ~~encourage~~ and promote effective use of
16 facilities, resources, and funds in the planning and conduct
17 of programs and activities for prevention, treatment, and
18 control of ~~alcohol~~ ~~alcoholism~~ and drug dependence and, in
19 this respect, cooperate with and utilize to the maximum
20 possible extent the resources and services of federal,
21 state, and local agencies.

22 (2) To carry out this act, the department may:

23 (a) ~~Accept~~ ~~accept~~ gifts, grants, and donations of
24 money and property from public and private sources;

25 (b) ~~Enter~~ ~~enter~~ into contracts; and

1 (c) ~~Acquire~~ ~~acquire~~ and dispose of property."

2 Section 51. Section 80-2717, R.C.M. 1947, is amended
3 to read as follows:

4 "80-2717. Emergency commitment of intoxicated persons.

5 (1) An intoxicated person who ~~he~~ has threatened, attempted,
6 or inflicted physical harm on another and is likely to
7 inflict physical harm on another unless committed, or ~~he~~
8 ~~who~~ is incapacitated by alcohol, may be committed to an
9 approved public treatment facility for emergency treatment.
10 A refusal to undergo treatment does not constitute evidence
11 of lack of judgment as to the need for treatment.

12 (2) The certifying physician, spouse, guardian, or
13 relative of the person to be committed, or any other
14 responsible person, may make a written application for
15 commitment under this section, directed to the administrator
16 of the approved public treatment facility. The application
17 shall state facts to support the need for emergency
18 treatment and be accompanied by a physician's certificate
19 stating that he has examined the person sought to be
20 committed within ~~two~~ ~~two~~ days before the certificate's date
21 and facts supporting the need for emergency treatment. A
22 physician employed by the admitting facility or the
23 department is not eligible to be the certifying physician.

24 (3) Upon approval of the application by the
25 administrator of the approved public treatment facility, the

1 person shall be brought to the facility by a peace officer,
2 health officer, the applicant for commitment, the patient's
3 spouse, the patient's guardian, or any other interested
4 person. The person shall be ~~retained~~ detained at the
5 facility to which he was admitted, or transferred to another
6 appropriate public or private treatment facility, until
7 discharged under subsection (5).

8 (4) The administrator of an approved public treatment
9 facility shall refuse an application if in his opinion the
10 application and certificate fail to sustain the grounds for
11 commitment.

12 (5) When on the advice of the medical staff the
13 administrator determines that the grounds for commitment no
14 longer exist, he shall discharge a person committed under
15 this section. No person committed under this section may be
16 detained in any treatment facility for more than ~~five--(5)~~
17 days. If a petition for involuntary commitment under section
18 69-6221 has been filed within the ~~five--(5)~~ days and the
19 administrator in charge of an approved public treatment
20 facility finds that grounds for emergency commitment still
21 exist, he may detain the person until the petition has been
22 heard and determined, but no longer than ~~ten--(10)~~ days after
23 filing the petition.

24 (6) A copy of the written application for commitment
25 and of the physician's certificate and a written

1 explanation of the person's right to counsel, shall be given
2 to the person within ~~twenty-four--(24)~~ hours after commitment
3 by the department, ~~who.~~ The department shall provide a
4 reasonable opportunity for the person to consult counsel."

5 Section 52. Section 80-2802, R.C.M. 1947, is amended
6 to read as follows:

7 "80-2802. Duties of department. The department shall:

8 (1) take cognizance of matters affecting the mental
9 health of the citizens of the state;

10 (2) initiate preventive mental health activities of
11 the statewide mental health programs, including, but not
12 limited to, the implementation of mental health care and
13 treatment, prevention, and research as can best be
14 accomplished by ~~community--centered~~ community-centered
15 services. Such means shall be utilized to initiate and
16 operate these services in cooperation with local agencies as
17 established under this act.

18 (3) make scientific and medical research
19 investigations relative to the incidence, cause, prevention,
20 treatment, and care of the mentally ill;

21 (4) collect and disseminate information relating to
22 mental health;

23 (5) prepare and maintain a comprehensive plan for the
24 development of public mental health services in the state.
25 The public mental health services shall include, but not be

1 limited to community comprehensive mental health centers,
2 mental health clinics, traveling service units, and
3 consultative and educational services.

4 (6) provide by regulations for the examination of
5 persons who apply for examination or who are admitted
6 either as inpatients or outpatients into Warm Springs state
7 hospital or other public mental health facilities;

8 (7) receive from agencies of the United States and
9 other state agencies, persons or groups of persons,
10 associations, firms, or corporations, grants of money,
11 receipts from fees, gifts, supplies, materials, and
12 contributions for the development of mental health services
13 within the state;

14 (8) establish standards for public mental health
15 facilities; and

16 (9) evaluate performance of public mental health
17 facilities in compliance with federal and state standards."

18 Section 53. Repealer. Sections ~~38-210~~, 71-101, 71-107,
19 71-118, and 71-233.5, R.C.M. 1947, are repealed.

-End-

45